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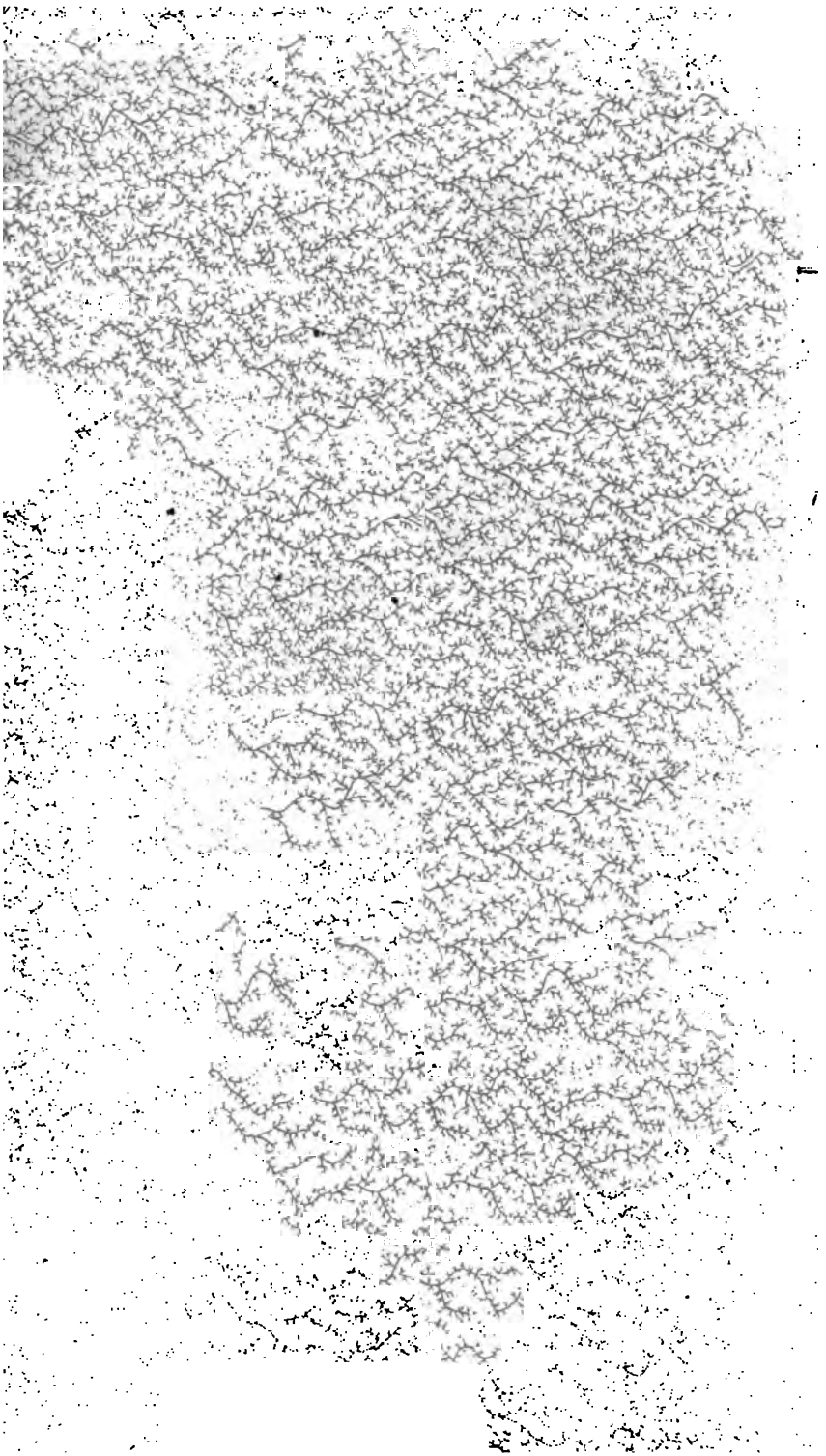

A

Statement of Facts,

SUBMITTED

TO THE RIGHT HON. LORD GLENELG,

HIS MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR THE COLONIES,

Preparatory

TO AN APPEAL ABOUT TO BE MADE BY THE AUTHOR,

TO THE

Commons of Great Britain,

SEEKING REDRESS FOR GRIEVANCES OF A MOST SERIOUS TENDENCY, COMMITTED UPON HIM, UNDER THE ADMINISTRATION OF

HIS EXCELLENCY,

THE MARQUIS OF SLIGO,

THE LATE GOVERNOR,

AND

SIR JOSHUA ROWE,

THE PRESENT LORD CHIEF JUSTICE OF THE

ISLAND OF JAMAICA,

WITH

AN EXPOSURE OF THE PRESENT SYSTEM OF

Jamaica Apprenticeship.

BY HENRY STERNE.

"The most despis'd, wrong'd, outrag'd helpless wretch,
Who begs his bread, if he be refus'd by one
May win it from another tender heart;
But he, who is denied his right by laws
Whose place it is to do no wrong, is poorer
Than the rejected beggar, or the wretched slave."—BYRON.

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1837.

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To the
LIBERALS OF GREAT BRITAIN,

THE

UNITED FRIENDS, AND ZEALOUS ADVOCATES

OF

CIVIL AND RELIGIOUS

Liberty.

To you, my friends and countrymen, do I now send forth this little volume, and I humbly beg, that you will most zealously give it your cordial support.

It is to you, and to you only, (save him alone who is the friend and advocate of all,) that I now appeal for support and aid, in exposing most thoroughly, if not, finally, in obtaining redress.

This volume, my friends, will be put into your hands free of cost and charge, save only to the Author, in order that the true friends of liberty may be known.

To such of you, I would say, into whose hands this volume may fall, who live only for yourselves—who grovel through life as if this was your only place of happiness—who never once felt that irresistable spark of brotherly love towards the injured and oppressed—the defenders of your rights—the upholders of your liberty, and the zealous advocates of civil and religious freedom; to such of you I would say—"Awake thou that sleepest, and arise" you have lived too long unto yourselves already; if this should be the case, arouse, arouse, redeem the time.

Yet, if from motives known only to yourselves, you decline to rank yourselves, in this list of friends, I pray you to pass on this volume to another; your names and reasons will remain a secret, save only to your own bosoms, for the approval or not of your own consciences, should, ever after, you yourselves stand in need of the like cordial support.

But, to you, my countrymen, who are, indeed, such as I have addressed, liberals and advocates of liberty, I pray you to enter with zeal upon the work. And, though I am, and have been, as yet, the only marked victim in the cause, yet, it is not I alone, but you—you, my brethren, who are equally concerned.

The cause is yours—it is the cause of every son and daughter of liberty—it comes home to the door of your happiness—it strikes at the very root of your freedom.

For it, our ancestors have contended—for it, many have died martyrs—for it, many now alive, not only struggle for and contend, but are willing to sacrifice their treasures, yea, if needs be, their very lives to uphold.

Need I then fear in submitting such a cause into your hands? I think not. I have already proved *my zeal*, by the sacrifice of *my fortune*—nay, by the sacrifice of *personal ease and family comfort*, and am still willing and ready to push on, to the full exposure of the baseness of those who have been sent out to protect and uphold the rights and privileges of you and your brethren in foreign climes, but who have disgracefully violated that trust so committed to them.

You, my friends, whose voices have been raised for years towards the liberation of your black brethren, I am sure will feel interested. For what have they been raised—for what have the coffers of the British Empire been thrown open—and for what have the twenty millions of solid gold been drawn? but for freedom—for liberty—for the free exercise of those dearest of all privileges, "*free and unshackled liberty of conscience.*"

I have, my friends, gone, cordially, hand in hand with you for years, in this most mighty undertaking, although living in a very land of slavery; yet will I not take to myself the praise of being alone and single handed there, for if I did, well might the Lord's answer to Elijah in the 19th chapter of the 1st book of Kings, and at the 18th verse, be made use of, when he was in straights and difficulties, zealous for his God, thinking he alone was left in his cause:—"*Yet I have left me seven thousand in Israel; all the knees which have not bowed unto Baal, and every mouth which hath not kissed him.*"

Were I to attempt to take to myself such praise, (see page 230) it would be a very LIBEL on many of your brethren in Jamaica, who are equally as zealous as yourselves in support of these liberal and praiseworthy measures, but who, through fear and dread of RUIN and DESTRUCTION, have been compelled to stand aloof—to hide their heads, and only silently to watch the progress of reformation.

Will you then, my friends and countrymen, seeing all this to be the case, back out of the conflict, and also stand aloof, *permitting myself and family to be alone sacrificed in the cause*, after having, with so much labour, patience, perseverance, and sacrifice of every kind, hitherto buffeted the storms, to the suc-

ceeding of thus far exposing oppression, and advocating *our mutual rights as freemen?*

No, I feel confident that you will not—yea, if you even do, I feel I have but done my duty in my day, as many others have done before me.

But, if you are, really and conscientiously, the advocates of the principles I have laid down, I entreat you not to throw cold water on your cause—not to damp the energy of those whom I have left behind, I say, still in a land of SLAVERY; for, when you have read this volume, you will see it but too true—SLAVERY in its darkest shades, and upheld too, disgracefully upheld by those————but I proceed no further.

All that man could do, have I done, in order to obtain Justice. Having been denied my right, by those whose place it was to do no wrong, I still have persevered, led on by the *justness* of my cause, and an abhorrence of such *perfidy* in the ruling powers.

I have been both basely and falsely held up (*by those very powers whom your zeal has sent out to administer justice*) *to* the public as a spy, as an enemy (so falsely termed) to the island of Jamaica, and an agent to the Anti-Slavery party in England, who are likewise (so falsely) demominated the sworn enemies of the Colonies; see the Chief Justice's unwarrantable address to the jury (page 217) and the Editorial remarks in the Jamaica Dispatch alluding thereto (page 224).

As to the part Mr. O'Riley, his Majesty's Attorney-General of Jamaica, is represented to have taken, I can freely excuse him, and trust my readers will do the same, as he only did his part, in the way of his profession, as an advocating council.

He, my friends, I verily believe, is a good man—a friend of the distressed—a charitable supporter and advocate of a just cause.

I will now say a few words for your information, as to the true state of things, in connexion with your black brethren. I say, friends of a righteous cause, slack not your zeal, and be not led away by false accounts.—"The prayer of the righteous availeth much." Well might I quote the words of the inspired Psalmist, Psalm 68, v. 13, "*Though ye have lain among the pots, yet shall ye be as the wings of a dove, covered with silver, and her feathers with yellow gold.*"

It has been spread, both far and wide, by a party, that the Colonies will be lost—that the blacks are still but savages—that they are unfit for freedom, and that the liberality of the British nation towards them, has been thrown away; yea, my

friends, in this my own native Isle, since my return from Jamaica, have I heard it echoed and argued with solemn force.

Will it then be taken amiss in my now stoutly speaking in defence of such very broad, and erroneous notions? I think not. I do, therefore, from a practical acquaintance of 21 long years residence amongst them, speak to facts in contradiction.

The upholders of slavery, will always be averse to let you arrive at the truth of it; but, my friends, read this volume, and in it you will find abundant proofs to contradict such unjust assertions.

The blacks have richly deserved the great and liberal boon conferred upon them! What have I asserted? *conferred!* nay, my friends, *it is only yet in name;* the blessing *as yet is lost to them*, and before the final accomplishment of the rich enjoyment, by their total liberation from APPRENTICESHIP, *I fear many thousands will have gone to that long home from whence no traveller returns.*

To assert that they still remain a herd of savages, undeserving freedom, is so unjust that I have hardly patience to contest the point with those, who are so led to believe such an assertion.

And, to contend that the Colonies will be lost—that they will not work when they become absolutely free, is so mischievous and unjust, that I must refute it.

First then, I must say, that since my arrival in England, I have never yet witnessed that lively christian joy amongst my own country folks, upon the Sabbath day, as may be witnessed amongst the blacks in Jamaica. Nothing now prevents their keeping it holy, but absolute works of necessity, and I must say that those who are the most faulty in this respect, are the owners of the apprentices themselves (see page 263). Families are to be now seen in the neighbourhood of a chapel, on the Sabbath day, who have travelled from the mountains on foot, through the night, ten, fifteen, and even more miles, purposely to hear the joyful gospel sound? Is this a proof of the assertion? I think not; their zeal and patience often puts me to the blush, my countrymen,

Secondly, that, they will not work, &c. I have been in the habit, for the past ten or twelve years, of circulating, in my little neighbourhood, St.George's, about £5000 a season, a very large portion of which has been always amongst the negroes; to one family alone I have paid as much as £40 at a time, and to many from 10 to £20, for their own crops of agricultural productions, which they had planted, taken in and manufactured in

their own spare hours of labour, say dinner time, nights, &c., this is no proof of their habitual laziness, but, I think, on the contrary, sufficient to destroy the false charge.

I once more add, on their behalf, to you, whose hearts are warm with christian love, cease not your vigilance on their behalf. The iron yoke of SLAVERY (for apprenticeship is equally as bad, if not worse) still reigns. The LASH, DUNGEONS, and CHAINS, are in constant attendance throughout the land, and will remain so, for near four long years yet to come.

If I, as a proprietor on the spot, have had my faithful servant, because he happened to be a black apprentice, SEIZED upon, in defiance of my entreaties, (and yet no charge against him (see page 31 and 77) put into CHAINS, and kept at hard labour for two long weeks, and during which time his back and body, so mutilated with the lash, that when he was released I lost months of his services from sickness ; if this be the case, *and this, indeed, is fact*, which has urged me on to expose such gross injustice, what need I urge further?

I have now merely to add, that it is my full intention, when I have succeeded in carrying my case through the British House of Commons, to publish a second edition of my work, adding to it all further matter of consequence ; particularly, the full Trial of the Most Noble the Marquis of Sligo, at the Old Bailey, in 1812, as referred to at page 287 ; and to all who are liberal enough, now, to forward me their mite, in order to assist me in this most arduous undertaking, shall then receive a fresh volume.

I have this request to make of all, who may be so liberally disposed, that they will forward to me their names and address (though, if for private reasons, some may wish their names not published, yet, still, I should request some cipher of note,) as it is my wish to give a complete, full list of all my supporters in order to encourage my friends, *and the friends of liberty in Jamaica*, that they need not fear party ruin or destruction, so long as they are acting in a just and righteous cause.

I am,

Your very faithful friend,

THE AUTHOR.

P.S. Where to apply to for copies of this Work, &c. see the last page of this Volume.

TO THE

RIGHT HONOURABLE

LORD GLENELG,

SECRETARY OF STATE

FOR THE

COLONIES.

MY LORD,

Having now completed the volume intended by me, 1st, for your Lordship's consideration, and 2ndly, for the consideration of the British House of Commons, and the people of England, (unless I get full and ample satisfaction at your Lordship's hands, for all the series of wrongs and injuries sustained, therein complained of), I, with the utmost respect and consideration, beg leave to tender your Lordship a complete copy, with a full detail of my grievances, to which I earnestly intreat your Lordship's most serious attention.

My complaints, my Lord, must now be simply confined against two high and important personages, although the volume abounds or speaks of deep injuries received by me at the hands of many others.

The two high and important personages, against whom I am compelled now to seek for redress, are His Excellency, the most noble the Marquis of Sligo, the late Governor, and Sir Joshua Rowe, the present Lord Chief Justice of the Island of Jamaica.

My Lord, when humble individuals such as myself, voluntarily stand forward for the sake of truth, and have to struggle at so enormous an expense, and personal sacrifice, as I have done, against such high and important characters—as the Representative of Majesty—and the Chief Judge of the land—it surely becomes a question well worthy his Majesty's Government, and if not of them, the people and their representatives, to investigate into.

My Lord, although I was represented to Lord Sligo, by Mr. Custos Bell, on the very onset of my troubles (when I appealed to his Excellency for redress) as an individual contemptuous, or

beneath the notice of his Excellency; yet by this volume, which I am at length enabled to lay before your Lordship, I think your Lordship will allow, I stand upon as solid and respectable ground, as either the Honorable Custos Bell, or The Most Noble Marquis himself; nay, I contend, I do more so.

I do herewith clearly show your Lordship, that I spring from ancestors, whose rank in life takes precedence of either, and whose *loyalty* has been marked in the *annals* of British History:—

And, although my Lord, I cannot boast of either personal wealth or title, I can proudly boast of what I hold more dear, viz.—unblemished character and honour, neither of which my Lord Sligo can boast of; for both of which has he long since forfeited; and it is only a matter of surprise to me, that such an one as his Excellency, should have been so singled out, by a wise Government, and sent as the representative of Our Most Gracious Sovereign, to rule over so respectable and important a portion of the British Empire as he has been.

My Lord, I humbly trust, will pardon the strain of language in which I am now compelled to speak—the patience I have hitherto had for the past two years, with the difficulties constantly from time to time thrown in my way, by these two important personages, added to the justness of my cause, must plead my excuse.

I shall therefore, at once, with your Lordship's permission, proceed to state my complaint:—

FIRST then, as regards my Lord Sligo.

I conceive it to be a matter of great public wrong, his Excellency's refusing to investigate into the causes of my complaint, in the very first instance, so far back as the 27th of November, 1834, at which time, I stood forward, boldly and publicly, not underhanded, but above-board—not as a spy or informer, as I have been held up in the public prints of Jamaica, but as an independent citizen, seeking the public good, and which has been the main-spring that has actuated me throughout the whole of my proceedings.

It will be seen, my Lord, at page 13, that I premised the the Custos of my determination on the outset, and, at page 1, that I appealed to his Excellency, at the very outset, through an expensive channel, viz. that of my solicitor, sparing no expense, and running no risk by my own ignorance of the proper way of appealing at the beginning.

This first step having failed, I contend, to the eternal disgrace of his Excellency, as a Governor, because it was his

bounden duty, as the representative of our good King, the Father of his people, to have investigated into the matter of my complaint, and if substantiated, to have at once granted redress—but instead of which, he lent his kingly power to aid my destruction.

For it was in consequence of Mr. Custos Bell's representations to his Excellency, that, when Colonel Moody of the Saint George's Regiment, (see page 52) at the end of December, 1834, or early in January, 1835, recommended me to his Excellency, as Captain-General, to fill up a vacant Ensigncy in the Saint George's Regiment, to which I was justly entitled, both by respectability and long services; his Excellency, in the most pointed possible manner, passed me by, conferring such vacancy upon another, and three others in succession, in the course of as many months, to the great regret of the Colonel, and many other of my personal friends, although to the great satisfaction, and boast of the Honorable Custos and his proud minions.

Again, his Excellency's continued refusal to investigate into, or grant redress, for further most serious injuries, inflicted on me as an individual—upon my poor and innocent apprentice, on my account, and upon the public at large through us, notwithstanding my own, and my solicitor's very powerful appeals, as laid down at pages 29 to 32, and 34 to 41.

Again, his Excellency's most unjustifiable conduct, in granting power to, or instructing Special Justice White, as proved by evidence in a Court of Justice, (see pages 171 and 208) to keep me, although a free and natural born peaceable subject of his Majesty, out of every public Court of Justice, so that I should not have the power to watch and report of his arbitrary proceedings.

Again, his Excellency's most unmanly attempts from time to time, to stifle all my proceedings, instead of granting me that justice so greatly my due, and which would have tended so much to the public good, which are so fully explained by the documents themselves, or particularly at pages 152 to 157.

Again, his Excellency's further most unmanly conduct, when he became acquainted that I had sent out my actions against Special Justice White, for his gross outrages upon my person, in making armed police hustle me out of a public Court of Justice, instead of at once granting me redress, he backed Special Justice White, with the aid of his Majesty's Attorney General, the Solicitor General, and Clerk of the Crown, (see page 165), so as to defeat every possibility of my obtaining justice.

Finally, on my part, owing to Excellency's neglect of

duty, and the countenance given by him to my persecutors, *the protection of the laws have not been ceded to me—my lawful occupations have been disturbed—my industry has been fettered —my pursuits have been perplexed—my family has been distressed—and, worst of all, my property, not only exposed to insecurity, but, absolutely, under a false color of law, has been wrenched from me.*

And finally, to close the whole, such conduct has been productive of evil consequences *to the public at large;* and our Gracious Sovereign, as the beloved Father of his people, through him, has suffered in their affection, for the countenance given by him towards oppression, has considerably damped, and destroyed the happiness of thousands.

And now, SECONDLY, as regards Sir Joshua Rowe.

It becomes my most painful duty, my Lord, to lay open such a scene of continued malice and disgraceful conduct, as regards this high, and ought to be, sacred character—being a Chief Judge, that I almost stagger in the attempt.

The different actions brought by me into his Honor's Court, one after another, with the different circumstances connected with each, and the determined stand his Honor took throughout the whole to trample on my rights, to overturn the laws, to make with one breath, and to unmake with the next, new rules, as they were falsely called, of court, on purpose to serve his own vile malice and revenge, are so plainly set down in this volume, as the attempts severally occurred, that I should be only recapitulating the same like grievances were I now to enter into them.

The audacious *falsehood*, my Lord, put forth so publicly by his Honor, under a plea of a mistake of counsel, on purpose to cover over his gross ignorance of the law—

1st. In granting, and afterwards denying that he had granted, a new trial, in Sterne, *v.* White, (see pages 182, and 189) is so very glaring, as of itself, needs no comment from me, and sufficient of itself, alone, to shew how totally unfit, and how unworthy he is to be continued in so high, and so sacred an office.

My Lord, under him oppression and injustice must triumph, whilst truth and justice are unable to raise their heads.

It will be in vain, my Lord, for the valiant sons and daughters of religious liberty to cry out, or for those of his Majesty's Ministers, who have sincerely at heart, the welfare and happiness of their fellow subjects, to exert all their influential powers, if such men as these, as I am now compelled to so severely

animadvert upon, are continued in such high and important stations—or if at first, ignorantly mistaken in, and then continued with refusals to hear the appeals of, and grant redress to their injured fellow subjects.

I take leave to refer your Lordship to pages 149 and 150, for a perusal of my charges, as against the Chief Justice to that period—and after that, to the remaining trials of Sterne, v. White, beginning at page 166 to the end, for a more clear and satisfactory exposure of naked facts, as to his Honor's ignorance of the laws, and arbitrary and disgraceful rule.

And now, my Lord, to close the whole, after having with such patience, perseverance, perplexity, uneasiness of mind, personal indignity, family disquiet, great personal risk, destruction of my business, and worst of all, immense sacrifice of property, succeeded in compiling a history of my case, I now, with all due submission and respect, lay it before your Lordship, as the great ruler of his Majesty's Colonies, and shall, with all patience, wait a further period of time, for your Lordship's adjudication of my case, never having been anxious, from the beginning, of inflicting uneasiness to any, but goaded on to the steps which I have hitherto taken, in order to seek Justice.

I have only now to add, that should your Lordship be pleased to think favourably of my case, and be inclined to grant me that redress, which, I submit, I am entitled to receive, as a deeply injured subject of his Majesty, and so injured, by the very powers who ought rather to have granted me their protection, that I shall abide by your Lordship's desire, either to prosecute my case further, or otherwise, as I have full and ample proof to substantiate every charge laid down, and shall not be found to shrink from the task.

In anxious expectation of your Lordship's reply—

I have the honor to subscribe myself,

Your Lordship's

Most obedient humble Servant,

HENRY STERNE.

16th January, 1837.

Copy of Mr. STERNE'S Solicitor's, Letter, which accompanied the documents No. 1 to 11, transmitted to His Excellency, Lord SLIGO, Governor, &c, of Jamaica, 27th November, 1834.

Spanish Town, 27th November, 1834.

SIR,

On the request of Mr. HENRY STERNE, of the Parish of Saint George, I have the honor to enclose, for the consideration of His Excellency, the Governor, some documents, which have been transmitted to me, to be laid before His Excellency, involving a Complaint against the Chief Magistrate of the parish of Saint George, for an alledged evasion of Magisterial duty, in refusing to bring to Justice the supposed accessary in a case of theft, charged by Mr. Sterne to have been committed on his property.

I am instructed by Mr. Sterne that it was not his wish to seek the punishment of the party principal in the theft, whose conduct, it is supposed, proceeded from ignorance, but rather to expose the conduct of the accessary his mistress, under whose orders the theft was committed. Mr. Sterne is anxious that if the law is to be enforced it should take its course against the party morally guilty, an anxiety to which he is the more induced by the recollection of a somewhat analogous proceeding in the case of Mrs. Clarke of St. Andrew in 1830 *or* 1831, *the history wherof is I presume preserved among the records in the Governor's office.*

The documents transmitted by Mr. Sterne contain, you will observe, another accusation on the part of Mr. Sterne against the same Chief Magistrate, in reference to the escape from Justice of the supposed accessaries to the murder of a person named Graham, in the year 1827, *the circumstances of which being wholly unknown to me, I leave to their own operation with His Excellency.*

I have the honor to be,

Sir,

Your very obedient & humble Servant,

CHARLES HARVEY.

To William George Nunes, Esquire.
Secretary, King's House.

A

DOCUMENTS.

No. 1.

Jamaica Ss., Saint George.

HENRY STERNE, of the parish of Saint George, being duly sworn. maketh oath and saith ; that on the evening of Wednesday, the 5th day of November, between the hours of 8 and 9 of the clock, P.M. it being then dark, his special constable, David Clarke, gave him (this deponent) information, that a thief had gone over his fence into his grass piece. Whereupon, this deponent took up his gun, which was at the time loaded, and proceeded with the said David Clarke, his special constable, to the grass piece,and then and there saw a person busily employed cutting grass: this deponent called out to him, and from his voice discovered him to be one William Harris, an apprentice to Mr. Horatio Guscott, of Buff Bay; the thief took to his heels, and this deponent, thinking to intimidate him and cause him to surrender, fired his gun up in the air; but this only made the thief run the faster, and he effected his escape by leaping the wall and pingwind fence.

This deponent considered that he, the thief, had been hired by Miss Matthews, to commit the theft for her horse, and in order to ascertain the fact, returned from the grass piece, pretending to have shot the thief, and declaring loudly that his blood would rest on the head of the party who had caused him to commit the theft.

Whereupon the thief's wife began to bawl and cry loudly, and charge Miss Matthews with having been the cause ; and Miss Matthews, conscious of the fact, lamented openly that she had so hired and sent him to this deponent's grass piece.

This deponent therefore charges the said William Harris, an apprentice to Mr. H. Guscott, on Buff Bay, with felony, trespass and larceny, as the principle ; and Miss Elizabeth Matthews, a free person, on Buff Bay, with larceny, as being the aider and abettor, or accessary to the said felonious trespass and theft.

So help me God.

HENRY STERNE.

Sworn before me, this 6th Day of November, 1834.

JOHN BELL.

Further sworn before me, this 6th Day of January, 1835.

FREDERIC WHITE.

No. 2.

Jamaica Ss., Saint George.

WHEREAS information and complaint hath been lodged before me, one of His Majesty's Justices of the Peace, for the Parish of Saint George,—

That one WILLIAM HARRIS, an apprentice of Mr. Horatio Guscott, of Buff Bay, did, on or about the hours of 8 and 9 o'clock, p.m. on the 5th day of November, wickedly, feloniously trespass and enter upon the fenced premises of HENRY STERNE, a residenter on Buff Bay, then and there to commit larceny.

And further, that one ELIZABETH MATTHEWS, of Buff Bay, then and there was accessary, by procuring, counselling, commanding, or abetting the said apprentice, William Harris, to enter upon the fenced premises of Henry Sterne, to feloniously trespass and commit larceny.

THESE are therefore, in his Majesty's name, to command you, forthwith, to apprehend the said William Harris, and Elizabeth Matthews, and bring them before me, or some other of his Majesty's Justices of the Peace, for the said parish, to answer unto the said information and complaint, and to be further dealt with according to law.

Given under my hand and seal, this 6th day of November, 1834.

JOHN BELL, L.S.

No. 3.

Jamaica Ss., St. George.

ARABELLA LAGOURGUE CROSS, of the parish of Saint George, being duly sworn, maketh oath and saith,—That on the evening of Wednesday, the 5th of November, between the hours of 8 and 9 o'clock P.M. it being then dark, she heard a gun fired off, in the fenced grass piece of Mr. Henry Sterne; she likewise heard voices and hooting, and shortly after saw Henry Sterne come out of the grass piece with his gun;—she asked Henry Sterne what was the matter, when Henry Sterne replied, that it was one William Harris, robbing his grass piece, whom he had shot. AND, Deponent declares, that immediately on the said Henry Sterne's stating this, that William Harris's wife or sweetheart, who was present, set up a hue and cry, bawling and charging Miss Elizabeth Matthews as having been the cause, and that upon this charge being made against Miss Matthews, that she (Miss Matthews) openly avowed that she had so hired and sent the said William Harris to cut grass in the

said Henry Sterne's grass piece, but that she considered it as much her grass piece as it was the said Henry Sterne's.

AND, this deponent further swears, that the said grass piece is thoroughly enclosed, and has only one regular admittance into it; and that admittance has a high gate, with a lock and key to it, and was locked up at the time. And this deponent further swears, that she knows Miss Matthews has no right to the said grass piece, but that it is truly rented to, and in the possession of the said Henry Sterne.

And, in support of this deponent's knowledge, that Miss Matthews has no right to the said grass piece—she remembers that only a few days back, the said Elizabeth Matthews wanted a few limes, and she had to request it as a favor of Mrs. Sterne, to let her go into the said enclosed grass piece to get them.

So help me God. Her

ARABELLA LAGOURGUE X CROSS

Mark.

Witness, JOHN E. ANDERSON.

Sworn before me, this 11th day of November, 1834, } A. CAMPBELL

No. 4.

Buff Bay, Saint George's,
Court House, November 11th, 1834.

WILLIAM HARRIS, Examined.

I did not go to steal the grass; I merely went into the yard to tell the people how d'ye, and Miss Matthews called me, and begged me to cut some grass out of Mr. Sterne's grass piece for her, as she had no one else to do it. I went accordingly, and all Mr. Sterne's people in the kitchen saw me going. If any of the people had mentioned to me that Mr. Sterne did not allow Miss Matthews to cut grass in his premises, I would not have gone to do so. I had only cut a handful of grass when David Clarke went to inform Mr. Sterne that Miss Matthews had sent me into his grass piece to cut grass; Mr. Sterne then came out with his gun to the place where I was and asked, who are you? I answered William Harris; immediately after Mr. Sterne fired his gun to shoot me. He missed me, and I fell down. He then ordered David Clarke to hold me till he gave another shot. As David Clarke was coming up, I got up and ran out of the grass piece

No. 5.

Miss E. MATTHEWS, was also brought up under a warrant issued on an affidavit of Henry Sterne, but discharged this day by The Honorable John Bell.

No. 6.

Jamaica Ss., St. George.

I, ROGER SWIRE, one of His Majesty's Justices of Peace, for the Parish aforesaid, having been called upon by Mr. Henry Sterne, uuder an act of this Island, viz. 33 Charles 2, c. 10, s. 1, entituled " an Act for preventing damages in plantations, &c. "

And having agreeably to the directions of the said Act, adminstered the oath, and taken the affidavit of three Freeholders as follows.

On the behalf of Mr. H. Sterne; as Plaintiff — J. T. Bloomfield
On the behalf of Miss E. Matthews, Deft.— Wm. W Buckley.
On the behalf of myself as His Majesty's Justice— M. M. Sollas

And they having agreeably to the said Act, heard the evidence of witnesses on oath, and seen and judged of the fences, and the trespass and damage committed by the Hogs, belonging to Miss Elizabeth Matthews, the Defendant, and agreeably to their affidavits taken, and hereunto annexed, have valued and appraised the said trespass or damage at the sum of twenty shillings, Jamaica currency. I DO THEREFORE in His Majesty's name, by the power vested in me, as being the Justice called upon to act, and agreeably to the instructions of the said act, adjudge and assess such damage, or trespass at the sum of forty shillings, Jamaica currency, being double the amount for the damage or trespass so appraised by the aforesaid three freeholders. AND I do accordingly adjudge that the said Elizabeth Matthews the defendant, shall pay to Henry Sterne the plaintiff, the said sum of forty shillings, Jamaica currency.

Given under my hand and seal, at Buff Bay, this 16th day of October 1834.

ROGER SWIRE, Ss.

No. 7.

Jamaica Ss., Saint George.

JOHN THOMAS BLOOMFIELD, of the aforesaid parish and Island, gentleman, having been duly sworn maketh

oath and saith, that having been called upon by Mr. Henry Sterne to act in his behalf, as a freeholder (as directed by the 33rd of Charles, 2 c. 10, s. 1) jointly with two other freeholders, viz. W. W. Buckley and M. M. Sollas, Esquires, to examine and judge of the fences of the lands, tenanted by him on Buff Bay, in the aforesaid parish, and further to see and judge of a certain trespass or damage, done on the cultivated lands so tenanted by him, and further to appraise and value the damage so sustained by the said Henry Sterne.

Doth hereby declare, on oath, that having examined the fences, he considers them fully sufficient to meet the meaning of the act, say 33 Charles 2, c. 10, s. 1.

And further having seen the trespass or damage done on the said cultivated lands so fenced in, and having heard the evidence of the witnesses on oath,

Doth hereby appraise and value the extent of such damage or trespass to be the sum of twenty shillings, Jamaica currency.

And further that such trespass or damage, was done, according to the evidence adduced, by the hogs of Miss Elizabeth Matthews.

So help me God

J. T. BLOOMFIELD.

Sworn before me, this 16th day of October, 1834.

ROGER SWIRE, Ss.

No. 8.

Is similar to No. 7. only as the freeholder on behalf of Miss Matthews.

No. 9.

Is similar to No. 7 & 8, only as the freeholder on behalf of Roger Swire, Esquire, as his Majesty's Justice of the Peace.

[CASE.] No. 10.

After what had transpired on Wednesday, the 5th inst. as per No. 1, I sat up during Wednesday night, looking over the laws, and deciding with myself as to the steps I should take. I accordingly prepared my affidavit (see No. 1), the warrant to apprehend (see No. 2), and also forms for recognizance for myself

to prosecute : and for the Justice to take bail, and bind over the accused William Harris and Elizabeth Matthews, to appear and answer at the next general Quarter Sessions of the Peace.

On Thursday morning, the 6th instant, I rode over to the custos's, Mr. Bell, with the several papers so prepared. (The deputy clerk of the peace lives about ten or twelve miles distant from either this place or the custos's, quite in the interior, and is but a novice in the profession, not having been in office but a few weeks.) It was about 11 or 12 o'clock, A.M. I stated my business to him, and produced first my affidavit (see No. 1), requesting him to administer to me the oath. On commencing to read the first part, wherein I charged the apprentice, William Harris, he appeared quite delighted, exulting as it were in my charge and detection of him, and saying, aye my boy, you will get it now, this will serve as a lesson to some of my fellows, (meaning his apprentices), who frequently rob his grass pieces. But as he read on further, wherein I charged Miss Matthews likewise, he seemed quite taken aback, and observed, no, no, this wont do; he would not do any thing in it regarding to Miss Matthews. I pointed out to him that it was compulsory on him to act, that it would be defeating the ends of justice, by his not doing so. That, in fact, Miss Matthews was the worst of the two, and that I wanted to have her punished more so than the other. After some argument, and determinedly holding my ground, he administered the oath, and I then presented him with the warrant (see No. 2) requiring him to sign it for the apprehension of the parties. He first most willingly consented to sign, to apprehend the apprentice, William Harris, but stoutly refused to sign for the apprehension of Miss Matthews; he wanted to strike out that part of it, relative to her, but I would not allow it He then started numberless objections, but I overruled them all. And he at length consented to sign, and did sign, but instructed me to direct the constable to bring the parties over to him at his place of residence. The next morning, say Friday the 7th, I pointed out to him, that I thought it would be better for the ends of justice, that the constable should let it lie over and bring them up at the public court house on the Tuesday following, as I conceived a second magistrate might be required in the matter; and Tuesdays are the days fixed on in this parish for the meeting of magistrates to hold Petty Sessions of the Peace. This however did not seem to please him; and he said he would not attend to it at all unless I got another affidavit sworn to by some one else as to the facts of the case. I pointed out to him, that that might be difficult to obtain, as it happened at night, and in the dark, but, however, I would see about it, as there was more than a dozen people assembled about my place, after the firing off of the gun, and the woman's howl-

ing, thinking I had shot the man. I nevertheless pointed out to him that my affidavit alone was sufficient to ground the charge, and enforce him to act.

Accordingly I delivered the warrant to the constable and yesterday, Tuesday, the 11th, had both William Harris, and Elizabeth Matthews brought up under the same, at the court house. It so happened that yesterday was fixed on for a Special Sessions of the Peace to grant licenses for arms under the new law; and consequently the deputy clerk of the peace attended. After leaving the Custos on Thursday, and going home, I made enquiry for further proof to satisfy him with some other persons affidavit. The only free person I could find, who was a proof as to the facts, and was willing to make affidavit, was one Arabella Lagourgue Cross, a sensible free black woman, and a mother of Children, whom I hire to wash my own and family's clothes; after consulting with her in presence of witnesses, I drew up the affidavit No. 3, read it over and over to her in presence of the witness, subscribing his name (John E. Anderson) and yesterday, Tuesday, the 11th, in the Court House presented it to his Honor the Custos, Mr. Bell, requesting him to read it, and administer the oath to her, the deponent thereof; He was highly incensed therewith, and finding the nature of it, would not at the time either consent to read it, or administer the oath, but cast it aside thinking I would let the matter drop; however, as this was early, say about 11 o'clock, I allowed it to lay, thinking by and by some other magistrate would have come in, and then I would have taken it up; waiting however till about 12 o'clock, and finding none came, I again took the matter up producing the parties brought up by the constable, under his warrant (see No. 2); still he tried to evade, but said he would, as soon as a second magistrate came, enter upon a summary trial with the apprentice, William Harris, and have him punished. I pointed out to him that there was no law in force, authorising him to take such a step.

I laid the following laws before him, the abolition act passed in December 1833, say the 44th Clause.—

"And be it further enacted, that all other inferior misdemeanors and other crimes committed by apprenticed labourers against each other, or against the person entitled to his or her service, or against any other person, and not hereinbefore specified, shall be heard and determined before any justice appointed by special commission, reasonable notice of the time and place of such trial being given to the person entitled to the services of the apprentice complained against, where such person

so entitled to his or her services, is not the complainant, and such justice shall, upon conviction of such apprentice, order and direct such punishment to be inflicted as he shall think proper, not exceeding fifty lashes nor three months' imprisonment to hard labour, nor twenty days' solitary confinement: provided, that nothing in this clause contained shall be taken to authorize such magistrate to sentence any female apprentice to be flogged or beaten: and provided also, that nothing herein contained shall be deemed or taken to deprive any of his majesty's subjects of his or her right to proceed against any such apprentice in any of the superior courts of this island or any court of quarter session, or common pleas, for remedy against any apprentice for any wrong or injury done or committed to or against the person or property of such subject:"

As also the amended act relative to same, passed in July 1834, say the 26th clause.

"**And Whereas,** doubts have arisen as to the precise meaning of the words 'crimes and misdemeanors' in the said act, fourth, William fourth, chapter forty one: BE IT ENACTED, that such crimes and misdemeanors as are by law cognizable and punishable by one justice of the peace when committed by any subject of His Majesty, shall be cognizable and punishable when committed by an apprenticed labour, by a special magistrate."

On these he wanted to ground his assumption of right, with a second magistrate, to a summary trial, to punish forthwith the apprentice Wm. Harris, and I do verily believe, had a second magistrate appeared, in spite of all my arguments to the contrary; and had such second magistrate consented, he would have persisted in his purpose, and the apprentice would have at once got punished.

I endeavoured to point out to him that he had no earthly right over the apprentice in a summary way; that the 26th clause of the act passed in July last, in aid of the act passed in December 1833, gave the exclusive right to the special magistrate only, in all cases of crimes and misdemeanors to a certain extent,

but beyond that extent, the matter was not left in the hands of the colonial magistracy, further than, that it must be brought before them by indictment in the general quarter sessions. The act to enable magistrates to take cognizance of petty assaults and misdemeanors was not intended to empower them over the apprentices, but over all other classes of His Majesty's subjects.

I next laid before him the 'Jamaica Magistrate's Assistant;" on examination and evidence, as follows;—

"When an offence is committed, and the offender brought before a justice, his examination must be taken, as well as of the evidence against him and as much of both committed to writing as is necessary to prove the offence. If there be any cause for delay the justice may, by word of mouth, direct the constable to detain the prisoner in custody until next day, to be brought up for further examination, which the constable himself or any other person has authority to do. The examination of the person accused ought not to be on oath, but, if he confess the matter, he may sign it; this sworn to by the justice or clerk, is evidence against the party confessing, but not against others; other witnesses may be brought forward by warrant from the justice to be examined on oath, and if they are unable to attend, or die, may be given in evidence in court. *If the justices should think, upon examination, that the prisoner is not guilty, yet he must not be discharged, but either committed or bailed.*"

Whereupon he directed the clerk of the peace, to take down any evidence on oath, which I gave, copy from my affidavit, see No. 1. Then he directed the clerk of the peace, to take down the examination of the apprentice Wm. Harris, which was, see No. 4, Then I proposed going on with Miss Matthews's examination, and had her brought up accordingly see No. 5, but he would not on any account allow her to be meddled with, declaring he would neither issue a warrant against her or permit her to be molested in the matter, I then laid open the Island law, before him, as to his magisterial duty relative to the case in question, which was the 8th, of George 4th, c. 22, an act of the Island, entituled "an act for improving the administration of criminal justice in this Island, passed 21st December 1827."

"**Whereas** it is expedient to define under what circumstances persons may be admitted to bail in cases of felony, and to make better provision for taking examinations, informations, bailments and recognizances, and returning the same to the proper tribunals. **And Whereas** the technical strictness of criminal proceedings might, in many instances, be relaxed, so as to insure the punishment of the guilty, without depriving the accused of any just means of defence; and the administration of justice in this Island might in other respects, be rendered more effectual: MAY IT PLEASE &c, That where any person shall be taken on a charge of felony, or suspicion of felony, before any one or more justice or justices of the peace, and the charge shall be supported by positive and creditable evidence of the fact, or by such evidence as, if not explained or contradicted, shall, in the opinion of the justice or justices, raise a strong presumption of the guilt of the person charged; such person shall be committed to prison by such justice or justices in the manner hereinafter mentioned; but if there shall be only one justice present, and the whole evidence given before him shall be such as neither to raise a strong presumption of guilt, nor to warrant the dismissal of the charge, such justice shall order the person charged to be detained in custody, until he or she shall be taken before two justices at the least; and where any person so taken, or any person in the first instance taken, before two justices of the peace shall be charged with felony, or on suspicion of felony, and the evidence given in support of the charge shall, in their opinion, not be such as to raise a strong presumption of the guilt of the person charged, and to require his or her committal, or such evidence shall be adduced on behalf of the person charged as shall in their opinion, weaken the presumption of his or her guilt, but there shall notwithstanding appear to them in either of such cases,

to be sufficient ground for judicial inquiry into his or her guilt, the person charged shall be admitted to bail by such two justices in the manner hereinafter mentioned.

S 3. And be it further enacted, That every justice of the peace, before whom any person shall be taken on a charge of misdemeanor or suspicion thereof, shall take the examination of the person charged, and the information, upon oath, of those who shall know the facts, and circumstances of the case, and shall put the same, or so much of the same as shall be material, into writing, before he shall commit to prison or require bail from the person so charged and in every case of bailment, shall certify the bailment in writing and shall have authority to bind all persons by recognizance to appear to prosecute or give evidence against the party accused, in like manner as in cases of felony, at the next supreme court or either of the assize courts, or either of the courts of quarter sessions of this Island, and shall subscribe all examinations, information bailments, and recognizances, and transmit and deliver, or cause the same to be transmitted and delivered to the clerk of the crown, clerk of the peace, or other proper officer of the court in which the trial is to be."

"S 5. And be it further enacted, That if any justice or coroner shall offend in any thing contrary to the true intent and meaning of these provisions, the court, to whose officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, shall, upon examination and proof of the offence, in a summary manner, set such fine upon every such justice or coroner as the court shall think meet."

And this which is so very clear, that no one could mistake, but such as was determined wilfully to do so, at the same time I told him, that he had already issued his warrant, against her to have her apprehended, see No. 2; and that it was by the authority of the warrant, that she was now apprehended and before

him. He got up in a passion, and declared he had given no such warrant, whereupon the clerk of the peace told him he was in error, and produced the warrant accordingly, bearing his seal and signature; he stammered out something of an excuse, but publicly declared, he would be answerable for his own acts, in spite of the warrant, or the law before him, and hereupon called out, loudly and openly, with the warrant in his hand, Miss Matthews, I discharge you. and you are hereupon discharged from the effects of the warrant accordingly, throwing the warrant on the table; which was immediately taken up with astonishment by one or two gentlemen then present, to peruse, and one of such gentlemen remarked, I know John Bell too well to suppose or think he would put his name to a paper without first reading it, (but I have and can solemly affirm and declare on oath, if necessary, that he did both read it and argue on it, as I have before stated, befor he signed it.) I charged the clerk of the peace to be careful in keeping it, for that it might be hereafter called for. Again I charged Mr. Bell, but he persisted and defied the law, allowing Miss Matthews to go free, but directing the clerk of the peace to take bail of two securities in £25 each for the appearance of William Harris, the apprentice, at the next general quarter sessions, and my recognizance to appear and prosecute.

I have accordingly drawn up the foregoing case, with a copy of all documents from No. 1 to 9, relative thereto, with a determination to expose to public view, the almost uselessness of attempting to get the ends of Justice satisfied in this part of the world.

And as I know it to be the instruction of government, in all matters of this kind, intended to be submitted to government at home, that it should first of all pass through the hands of, or be laid before His Excellency the Governor here, I have prepared the foregoing for this express purpose.

I shall however beg to draw the attention of His Excellency to an almost similar affair, but not so bad as this, which happened in the parish of St. Andrews, in the year, I think, 1830 or 1831. It was to this effect; Mr. Wm. Taylor, the attorney of Mr. Wildman, living on Papine Estate in St. Andrews, detected some negro slaves belonging to Mrs. Clarke, widow of the great Mr. Clarke of that parish, stealing grass from off Papine Land; on their being detected, they gave it as their excuse, that they were forced, or compelled by their mistress to steal the grass. Mr. W. Taylor, wished to expose and punish Mrs. Clarke, (not the slaves) and accordingly had them carried before the Magistrate at Halfway Tree; there was no proof as to the facts in this case (which is very different now in mine), beyond the assertion of the slaves themselves; accordingly the ends of justice were defeated, the magistrates flogged the poor negroes, for

which Mr. Wm. Taylor, was excessively sorry, but Mrs. Clarke, totally escaped all manner of punishment : Mr. Wm. Taylor had this affair laid before his Majesty's government, and I fancy the records at the King's House, will shew the result.

Jamaica Ss. St. George.

Henry Sterne, of the aforesaid parish, gentleman, being duly sworn maketh oath and saith, that the foregoing statement, is a copy of the statement, and charges, preferred by him to His Excellency, the Marquis of Sligo, Governor of Jamaica, &c. &c. against The Honourable John Bell, Custos Rotulorum, and Chief Judge for the aforesaid parish.

And further this deponent swears, that such statement and charges, are just and true in every particular, to the best of my knowledge and belief.

So help me God,

HENRY STERNE.

Sworn before me this 6th day of January 1835.

FREDERIC WHITE.

No. 11.

[2nd. Case.]

I will however instance another most glaring case in which humanity shudders, at the recollection of, and in which I was, under the guidance of the Almighty, an humble instrument bringing to light. I will just copy it from the public papers, verbatim, printed at the date of trial ; it happened in this very parish, and through the perverse obstinacy of his Honor, the then and still present custos of the parish, the ends of justice were completely and cruelly frustrated; the four poor slaves were executed, but the free, who were the most guilty, escaped. I have often thought of the matter since, and regretted exceedingly that I did not at the time lay it before government, but as a fitting opportunity now occurs, and as the same perverse, obstinate hardihood exists on the part of the Custos, to prevent and defeat the ends of justice, I trust His Excellency, as also his Majesty's government will see how incompetent a person the present custos is, to uphold and meet the ends of justice, by holding so high and distinguishable an office.

In the Jamaica Courant and Public Advertiser (Newspaper) of the 26th September, 1829, is to be found the following.—

"This day's paper contains a report of a trial for murder. Rarely has a case of such extreme atrocity come before the public of Jamaica. The deceased was a free person of color; he was a married man. The coldblooded revolting murder was perpetrated in the presence of a crowd of slaves, and as is charged by the moral evidence of the slaves, who were executed, some free people were accomplices, and horrid to relate, one was a witness of the deed and incited the crime from whom was to have been expected—but we will go no further.

THE MURDERS AT BUFF BAY.

At a special slave court, held at Buff Bay, St. George's, on the 1st instant, before the Honorable John Bell, Robert G. Kirkland, and James Shenton, Esquires.

A Jury were empannelled as follows.

Francis Guscott,	Robert Dunbar,	J. T. Bloomfield,
J. B. Kennian,	Robert Dundas,	George Langlands,
Thomas Leamy,	Donald Mathuson,	Wm. W. Buckley,
George Helps,	John Clarke,	William Neil,

An Indictment was read by the clerk of the peace, charging Alick Brown, David Carmichael, Thomas Brown, and George Norman, four slaves belonging to Gutter Head plantation, the property of Mrs. Isabella Graham, with the wilful murder of their late master, Mr. William Graham, to which they all pleaded *Not Guilty*.

Isaac Johnson, a slave, and an accomplice, was called upon the part of crown, and was for some time interrogated by Counseller Dallas (who appeared there on behalf of the prisoners,) as to the nature of an oath. Johnson at length said, he knew if he swore false he would die, die over and over, and would go to hell and burn. He was then sworn; and as he swore he said, so help me God if I tell lie. Well massa, I am Watchman at the cocoa piece, and when marshall begin to run we, mistress call me, and say, my negro, go up to the cocoa piece, and marshall keep da come. One night me come down to Gutter Head to sleep; I go into Thompson's house; we eat supper and sleep; well, massa,—fix the business to murder massa. (Here Counseller Dallas objected to———name being called in question, and would not allow the evidence to say any thing about the free people, which considerably cut the thread of the story.) Alick Brown and Thompson came and woke him; and when called, he came but thought it was the marshall, and wanted to run; they said no, come this way; when he came, they told him he must come and murder massa this night, or else they would be sold on Monday;——say so; Alick Brown been have one long maho

rope in his hand, and said that if any body would run, he would get up and take his knife, and stick that somebody; and then they go into the house where massa been da sleep, the back door was open, Alick first go into the house, Thompson follow, David follow, George Norman follow; George Norman say him da married man, him wont put hand to murder massa, but would help to carry him; when them go into the house me was frightened, me run, go back and hide under bench in carpenter's shop, them look and no see me, they come out and look for me all four, they come catch me under the bench, and push me before them, and say me Guinea negro, me have heart, Alick say so, saying every day me do boast, me do talk, me do brag, but now me fraid. When we get into the house, Alick stand by massa stomach, David stand aside of his head, Thompson sideway, close his hand, Alick say I must stand at his foot; Alick then catch hold of massa throat and tie him, David fall down upon his head and hold his mouth and nose, Thompson hold his two hands, me own self, me come to hold his foot halfway, me hear him bawl "me dead, me dead," and me run; they murder him done now, and they carry him out of the door, and wanted me to help hold him, but me would not, they take neck cloth and tie him neck, and put on him trowsers, they maussa him now; George Norman married, no put hand there, but assisted to carry him, they take one board from the carpenter's bench, and lay him on the board, and took some string and tied him down thereon; George Norman carry one side, David one side, they carry him half way da river course, and put him down; now Thompson and Alick Brown took him and carried him across the fording, and let him go into the water, and carried back the board; massa was quite dead before put into the water.

Case closed.

Counsellor Dallas. Are you and those four men good friends?

Answer. The first is my son, one is my shipmate, Thompson is my Godson.

Q. Are you and him good friends?

A. Me quarrel a little sometimes, but only word of mouth; me never quarrel with David or the others, but sometimes quarrel with Godson.

Q. Has Thompson got a wife?

A. Yes, and two children; Thompson's wife was in the house, they come and call me; me been da sleep.

Q. Had Thompson and you taken supper together?

A. Yes Sir.

Q. Did Thompson go to sleep?

A. Thompson gone to bed in da room, me sleep in da hall; to get out of bed he must pass through hall.

Q. When did you see Thompson go out of the house?

A. Thompson call me da door; I was asleep when he got up, me see Thompson da door, me see them da door, follow them into carpenter's shop, they said to me, we must come go and murder massa, my heart no been there far tell.

Q. When they told you to go and help murder him, what did you say?

A. Me say better not do that.

Q. Did you do nothing to help?

A. My hand go there, but my heart fail, and me run back.

Q. Did you see him die?

A. Yes, I see him die when they been da put on his trousers, him been da hiccupt.

Q. What kill your massa?

A. They take rope and run round his neck, and tied him with a piece of maho bark, broad, but not twisted.

Q. Did you see either Norman's or David's wife.

A. No, did not see either, but saw Thompson's.

Q. How many Christmases since this happen?

A. This Christmas da come make four, me never tell nobody.

Q. What made you tell after so long a time?

A. I was taken da road, and brought here.

Q. When the Coroner's Inquest was held, were you there?

A. When the Jury go up me no been there, me go da cocoa piece.

Q. Did any one send you to the cocoa piece?

A. Yes, da massa Bobby send me there.

Q. Your massa used to drink sometimes, did he not?

A. Yes, him drink, but not to get drunk, me no see him da tumble.

Q. Your massa get mad sometimes, did he not?

A. Yes, him run out of the house sometimes.

Q. You are quite sure all those four men were with you that night?

A. Yes, all four was with me that night, who throw him into the river, they loose him off the board into the river, the river been high, they put him into the fording.

Isabella Thompson, wife of Thompson Brown, and Margaret Ohlson, wife of David Carmichael, were severally called up and sworn; their evidence appeared a complete made up story, in order to prove their husbands were from home the night of the murder.

Mr. Dallas made a very lengthy speech, but the circumstances were too clear, and the Jury after retiring a few moments brought in a verdict of Guilty. They were then valued for £288 6s. 8d.

The Honorable Mr. Bell then rose, and in a very able and impressive manner, passed upon them the awful sentence of the law; that they were to be taken to the jail from whence they came, and from thence, when His Excellency the Governor should think proper, to the place of Execution, there to be hung by the neck, till they were dead, and may God, of his infinite mercy, have mercy on their souls.

EXECUTION OF FOUR MURDERERS AT SAINT GEORGE'S.

The last dying speech and confession of Alick Brown, George Norman, David Carmichael, and Thompson Brown, who were executed on Thursday morning, the 24th Instant, pursuant to their sentence.

The Spring Garden Company of the St. George's Regiment, under the command of Captain Kirkland, attended at the place of execution; a Captain's guard of the Charlestown Maroons, who had been on duty over the prisoners for the last few days, escorted them to the place of execution.

Much praise is due to the Rev. Mr. Griffiths, for his daily and unremitting attention to the unfortunate prisoners. Ever since the sentence of the law had been passed upon them, they remained in a complete state of hardihood, in no wise confessing, or seemingly sorry for the past, until yesterday morning, when their wives were allowed to visit them, and carry clean clothes, after which, finding there was no hopes of pardon, they each, and all of them confessed fully their guilt, before the Rev. Mr. Griffiths and others. They acknowledged the justice of their sentence, but said they were compelled to do the deed. They thought that George Norman ought not to be hung, because he did not help to do the deed, but only looked on, and assisted in carrying the body to the river; they stated massa ——— compelled them, and that the whole of the Gutter Head people were present before the house, looking on, that ——— was walking up and down the piazza, that both the ——— served the folks with rum, that Mrs. Graham and family had Mr. Graham's bed taken down the day before, and he was put to sleep on a shake down in the hall.—They further said, when they went in upon him, he (Mr. Graham) made a spring up, and made a desperate resistance, crying out "murder! murder! help! help!" that ——— came and encouraged them, and told them to seize him, for that as they had gone so far, if they were now to let him go, he (Graham) would play the devil with them; with that they seized and murdered him, in presence of all the Gutter Head people, in number about fifty; they said their wives had

taken false swear, in saying on the day of trial, that they were not there at the murder.

At about 11 o'clock they were placed on the scaffold, they all said "tell massa ——— thanky, tell him thanky, tell misses and old misses thanky, for da them bring us to this, da them bring us here, them cheat we, them say we must kill massa, or else them would punish us, and Marshall would take and sell every one of we; but we pray every body to pray God to forgive them, we pray you all massa negro, (of which a number was present) to take warning by us, for we now see what an end we have come to, we pray you will all go to church every Sunday, and be good.

George Norman, da no for sake of buckra work, make we come here, but da massa ——— and ——— ———

Alick then called his wife, and shared his sow and little property between her and his children, and told her to go and pray to God for him, and to "tell massa ——— how die, how die, tell him we send, tell him thanky, him and them all, we been wish massa ——— would have been come down, but we all freely forgive them."

George Norman. "hope they will go to church and pray, same night they call him to carpenter's shop massa ——— say he must come go and help murder massa, him no promise him anything, him no get nothing."

Alick, "I sorry when 'twas over, but 'twas too late, ——— and ——— them take bottle and make Obeah, and make we all drink, they then break the bottle and bury it; it tasted salt, ——— tell us him mammy put salt into it, but we forgive every body.

George Norman say, "they come call me, but me no been want to come, they force me, massa ——— say it must be done, and done at once, and say so four times, and massa ——— come back and shove me, and carry me go. I forgive every body, no more one somebody me carry da me heart; first day me tell buckra every thing, but da somebody tell me for change me word, to say me been drunk when buckra ask me again, no see him here." At this time he turned himself on the scaffold and faced Alick Brown, "I no tell lie upon nobody, if any one da here, let him say if me tell lie upon any one, massa ——— come da night too, so tell we, we no must speak anything at all, him give we cigar for smoke too, through the iron grate, and say suppose we no speak, nothing will do we, we all will get clear; da dat make me no been speak every thing to buckra, when dem put question second time, but say me no sabe anything, and me been drunk first time me speak to them."

The caps were now drawn over their faces, and they were advised to pray, they all seemed to pray with great earnestness, particularly Alick, and George Norman, saying "Lord have mercy upon us, Christ have mercy upon us, receive us O merciful Father; thou sayest O God, knock and it shall be opened; we therefore pray thee O God, that thou wilt open to us, poor sinners, that thou wilt receive us, and have mercy."

The Rev. Mr. Griffiths then commenced and read a most appropriate and affecting prayer, in which the unhappy culprits joined; just at the close the sign was given, and in an instant they were launched into eternity.

Alick died almost instantly, so did David Carmichael, but George Norman, and Thompson Brown, died very hard. The moment the drop fell there was an awful shriek from the wives and children of the unfortunate men, and the negroes of Mrs. Graham.

The following is from the Royal Gazette :—

Buff Bay, Saint George's,
September 24, 1829.

The awful sentence of the law was carried into effect, at a quarter past 11 this forenoon, on the persons of Alick Brown, David Carmichael, Thompson Brown, and George Norman, slaves in the possession of Mrs. Isabella Graham, (of color) for the murder of her husband, William Graham, (of color) in June, 1827.

The criminals approached and ascended the scaffold in the most firm and collected manner, after which they requested permission to address their fellow slaves, that they might advise them not to follow their example; they reiterated a confession of their guilt, which they had made the preceding day, and declared that they had not of themselves any intention of committing murder, but had been induced by Mrs. Graham, Miss E. Ohlson, and Robert Ducat, to murder Mr. Graham. Alick Brown said that Mrs. Graham first told them to do it, or otherwise the negroes would be sold for debts of Mr. Graham, and they would lose their houses and grounds; he replied he could not do it, he did not regard his losses, he would find "fire and water" every where. The slaves were repeatedly urged, and on the night of the murder, Robert Ducat, about 10 o'clock, went to their houses and called them up, and said they must kill Mr. Graham; thus urged, they executed the horrid deed. The criminals asked for the Gutter Head family, and for Isaac Johnson, (the Crown witness) and for John Wray, and said they ought to have attended, that they (the criminals) might

prove to them that though they had brought them to the gallows, they forgave them; they said they died in peace and good will with every body. They repeatedly spoke to their wives and children and others, and recommended them to live well, to take care of one another, and to avoid bad advice, and not do as they had done. Alick Brown called a woman by name, and desired her to convey his remembrance to the Gutter Head family, and tell them he forgave them. He uttered a most affecting prayer, the others also prayed, and they all evinced a fortitude and resignation surpassing what I could have imagined it possible for people to do, standing in their terrible situations, with ropes about their necks, ready to be launched into eternity:

The Rev. Mr. Griffiths attended and prayed with them, in a manner that sensibly touched the feelings of all present. The struggles of the dying sufferers were very soon ended; in three minutes they all appeared dead. Mr. Griffiths was most assiduous in his endeavours, and particularly since Saturday last, to bring their hearts to penitence; they continued hardened up to Tuesday last, but on his taking leave of them on that day, David Carmichael requested he would come to them in the morning, and they would tell him something; he visited them accordingly, accompanied by his Honor the Custos, when they confessed as follows:—

"The murder was planned by all the family at Gutter Head except Harriet Ohlson, (she is the mother of Robert and Alick Ducat) the criminals and other slaves, were repeatedly tried by the family to be induced to murder Graham, but they would not; that on one occasion Mrs. Graham went to Buff Bay, leaving word to have her husband dispatched, and that when she returned, and found it not done, she was very angry. On the day of the night of the murder, Mrs. Graham had his bedstead taken down, and his sheets sent to the river, ordering a shake down (i.e. a pallet) to be made in the hall, (which has a dirt floor) for him that night; she went to Buff Bay in the evening, leaving directions to have him killed; his place of sleeping was changed to the hall, that the murderers might have more room to get round him; that about 10 o'clock at night, Robert Ducat went to the negroes' houses and called them up, when they proceeded to the buckra house; Elizabeth Ohtson gave them plenty of rum to drink, before they could make up their minds to do the horrid deed; they went into Graham's apartment and seized him, he jumped up, and cried out very loudly, murder! murder; they were frightened and about to desist, when Robert Ducat looked in and said, "if you don't finish the work now, he will play the devil with you all;" they then grasped

him, and murdered him, as related by Isaac Johnson, whose testimony they corroborated, except as to the use of the cord. Alick Brown said he had no cord, he strangled Graham with his hands; Robert Ducat and Elizabeth Ohlson and two slaves, named John Brown and John Wray, looked on; Alick Ducat walked up and down the piazza adjoining.

They declared no reward was promised them, and none given; they said they did receive six, instead of four yards of pennistones, as customary, with their clothing, but no reason was assigned for the extra quantity; they said all the slaves of Gutter Head knew of the murder.

The others said George Norman ought not to be executed, as he only looked on, and did not assist in the murder, though he did in the conveyance of the body to the river.

They asked why the Gutter Head family were not taken up to be hanged as well as they, and said it was because they were poor slaves; they said they would have confessed before, but that Robert Ducat spoke to them at night through the grating of the jail, and told them they must not tell any thing, and he would get them free from trouble; he gave them segars."

Thus has been brought to light, and partly to justice, one of the most atrocious murders that stains the annals of the island; a wife instigating her slaves to the murder of her husband! and for the mercenary consideration of securing her property from sale for the payment of his debts! planning his murder for weeks, perhaps for months, previous to its diabolical accomplishment; her heart having once entertained the wicked suggestion, of murdering him, whom she had solemnly sworn to love, cherish, and obey, would not relent, could not recover its humanity, though shamed from its devilish purpose by her barbarous slaves, but became more fixed and determined, as humanity was invoked, till from intreaty she rose to command. Her wretched slaves, who had resisted the first, too fatally obeyed the latter, and, under the immediate influence of spirituous excitement, and with the eyes of her mother and her cousin upon them, they perpetrated the monstrous deed!

> " If (as) she has deformed this earthly life,
> With murderous rapine and seditious strife,
> In everlasting darkness must she lie."

Let us earnestly hope that justice will, ere long, overtake those who are infinitely more guilty than the unfortunate slaves who have suffered.

It is really surprising that while so many persons were acquainted with this murder, upwards of two years transpired

before its discovery. Much error exists as to the manner in which this discovery was made, the facts are these:—

One of the Gutter Head slaves, named Jane Williams, a creole, spoke of it to some of her friends, and said she believed her sickness of late, was caused by her concealment of the murder. This reached the ears of Mr. Sterne of Buff Bay, and he, on or about the 15th of July, made an affidavit of the circumstance before his honor the Custos, who thereupon issued his warrant to apprehend her and her husband, William Robertson. On examination they mentioned the names of the murderers; they were apprehended on the 17th, when Isaac Johnson confessed it unhesitatingly, George Norman, and Thompson Brown also confessed it; Alick Brown and David Carmichael persisted in denying it until the day before their execution.

With this knowledge of the confession of three of the murderers, it was matter of astonishment to every one that Mrs. Graham employed Counsellor Dallas on behalf of the criminals, and made the insidious attempt of proving, by perjured witnesses, an alibi in favor of Thompson Brown and David Carmichael.

She went to Kingston after the condemnation of the criminals, but I have not learnt whether she made any application to His Excellency the Governor for their pardon; it is thought she did. I send you the Inquest on Graham; in the face of evidence, then thought respectable, the Jury could not bring in any other verdict than they did.

THE following are the real facts of this case, and on which I have, and do ardently pray, Justice might yet be satisfied; I do most solemnly charge Mr. Justice Bell, as being the cause why Justice was not fully satisfied years ago, and I am now willing to make much personal sacrifice to meet the ends of Justice; had I been made a Justice of the Peace for this Parish, I think, I would have been able to have brought matters fully to light and to Justice.

In May, 1827, being then a residenter on Buff Bay, I was appointed to act as deputy clerk of the Peace. I had the records of the office brought to my house, but after looking into its affairs, and finding it not very lucrative, and that it interfered with my other business, I resigned in favor of a friend, about the end of June. However, during the time I held office, say about the 2nd of June, the murdered William Graham (then alive), sent a messenger to me, (who is still alive), requesting of me officially as clerk of the peace, to wait upon him at the messenger's cottage, on the outskirts of this Bay. I waited upon him accord-

ingly, and found him, (early in the morning, say 8 o'clock,) without either hat, shoes, or waistcoat on. He told me, shewing a big stick in his hand, that he had just escaped from being murdered, that I must excuse him being in the plight that he was, say without hat or shoes, &c. that his wife, Mrs. Graham, had taken them away, as also all his clothes, on purpose to keep him at home, and not allow him to go out, as he (Graham) had made up his mind to give himself up to the marshal, in order to pay his debts; (he was then owing me £80 on judgment, and £60 on note). He further stated that his wife had made attempts on his life, by putting poison in his rum and food, once or twice lately, which he had detected, and that she had now penned him up at home, and set negro men to watch him. That it was by good luck he got up as he stood, without shoes or hat, during the night, and escaped with his stick; but nevertheless, one of the negro men who was set to watch him, discovered him escaping, and gave chase; but he, being driven desperate to escape, got clear, and he now called upon me in an official capacity, as deputy clerk of the peace, for protection and advice.

I offered to take up his debts for him, which amounted to 800 or £1000, on his and his wife's conveying over to me a lease of their negroes till the amount was worked out, which he was exceedingly anxious to do, but she would not. I therefore advised him to give himself up to the marshal, which would enforce this arrangement on the part of his wife; and I left him that morning, on the full understanding that he was to wait there, and surrender himself to the marshal the next morning, and he urged me to send for the marshal for the express purpose of receiving him, which I did accordingly.

It so happened, however, that his wife, serpent-like, finding he had escaped, took horse, made negroes follow her with a second horse for him to ride, and clothes for him to put on, and came in pursuit of him; having found him, she, partly by intreaty and partly by force got him to return home with her. The next morning the Marshal came by appointment, but finding he had returned home, got me to accompany him to William Graham's residence, to get him to deliver himself; I went accordingly, but myself and the Marshal was locked out, a high 10 foot fence was between us; he came down to the fence side to speak to us; his wife and others stood on the hill about 30 or 40 yards aback of him, watching him; he pointed out to us that his wife would not suffer him to go with us then, for that she had taken away his shoes, hat, &c. to prevent him, but pledged himself sacredly that at night he would watch the opportunity and escape to us; we were compelled therefore to leave him, and expected his delivering himself, but instead of which the next day, or the day following, we heard he was missing; the two Ducats went

about the parish pretending to seek him, one of them came to my house on the Bay, and told a long story about him, and immediately I held suspicions that he was made away with, I communicated my suspicions that evening to a magistrate, Mr. Kirkland, who as a friend visited my house, and who the next day acted as Coroner on Graham's murdered body. I had to go to Annotta Bay the next morning, and did not return till between 4 and 5 o'clock in the evening, and as I drove up in my chaise, to my door, my neighbour Mr. Sollas, (now alive) came running over, and saying, poor Graham is found, drowned, and a Jury is now two hours since gone up, to sit on his body; he was of opinion with myself, that Graham was made away with, for that Graham was too much of a christian to put an end to his own life; I lost no time, but took my horse from the chaise, although having drove him 20 miles that day, clapped a saddle on him, and galloped up, intending if in time, to tender my evidence of suspicions to the Jury; though 5 miles distant, I was just in time to save the giving in of their verdict, it was getting dusk, there was a full Jury, and in consequence of my interference, the Inquest was adjourned to meet there at 8 o'clock in the morning, the body was ordered to be taken up from the river, into which it had been thrown, and put into the house; I returned home, and prepared about 17 or 20 questions to put to his wife and the Ducats, but when I got up the next morning, I found that Mrs. Graham had been to Mr. Kirkland, who acted as Coroner, and woman like, had been weeping and telling a fine story, and had so won upon Mr. Kirkland's feelings, that he would not permit of my interference, and as I was not one of the Jurors, he would not suffer me to interrogate the witnesses by questioning; thus Justice was here defeated; I however took one of the jurors out from the rest, (who is still alive) into the room where the body lay, and there pointed out to him, particularly, a black mark of three inches in his throat, like as if he had been strangled; the room was crowded with women and negroes, and I have since learnt, that the murderers were sitting there, in breathless anticipation of discovery, and they said, had I been permitted to interrogate, as I wanted, the whole murder would have been at that time discovered.

The verdict was returned, "*that he had drowned himself in a fit of insanity.*" Time now flew by, but during July of 1829, by accident I learnt, that a woman named Jane Williams, belonging to Mrs. Graham, had been heard to say that her master had been murdered, It struck me that if I could prevail on the Custos to have her taken up and examined, the matter would come out; I accordingly waited on him, told him of the facts, and obtained a warrant to take up her and her husband; I delivered this warrant to the constable, but knowing the need

of secrecy and promptness, I volunteered my own services, and rode with the constable to Mrs. Graham's, to execute the warrant; we got hold of the woman, who was at the time sick, and had to wait some little time for her husband; I remember the morning well. Mrs. Graham, her mother, Miss Ohlson, and one of the Ducats was there, and they looked unutterably; Mrs. Graham wanted us to go home, and she would undertake to send the two negroes down; this was now about 10 o'clock a.m., we had not breakfasted, the constable was inclined to accept her offer, but I would not allow it; I secured the prisoners and put them on the road before me, they wanted to plead the sickness of the woman, and the tiresomeness of my remaining so long on the road with her, but all this would not deter me from my purpose; I went on at a snail's pace; Mrs. Graham got her horse and came after us, and tried all she could to separate me from the woman, but I would not; at length we had to go through Spring Garden, where Mr. Kirkland was residing, and who was the magistrate that acted as Coroner on the Inquest; the constable and Mrs. Graham wanted the people, now to be examined before Mr. Kirkland, but I would not permit it, having taken good care in filling in the warrant, not to say that they be taken before any magistrate, but brought expressly before the Custos.

Accordingly we proceeded on to the bay with our charge, Mr. Kirkland having very injudiciously, said to the constable, in jest against me, that it would turn out to be a mountain in labour but which would bring forth a mouse.

I saw the prisoners lodged in jail, now about 12 o'clock, and sent over to the Custos to acquaint him, and then went home to my house to shift and eat breakfast; just as I had done I received a message from the Custos, saying he wished to see me at the Court House; I went immediately, when he said, " well Sterne, I have been examining the people, and can find not the slightest grounds about what you told me, I was just going to discharge them, but I thought it as well to send to you first, as perhaps you may have some questions to put." I immediately replied, with his permision I would examine; he having assented, I ordered the man to be locked up, and brought forth the woman; I then most solemnly swore her, in the presence of that God, to whom, as I then told her, she would hereafter have to give an account; I told her that I knew more of the affair than she perhaps was aware of, that if she did not at once confess the truth, that I would bring forth other witnesses, who perhaps would place her life in jeopardy; she was at first sullen and denied, but by sharp cross questioning I entangled her, when she immediately said, if the Custos would go aside with her privately, she would confess all; I advised him to gratify her whim, and he did, and she confessed the

whole affair; we then brought forth her husband, who, finding all was blown, corroborated her statement. The Custos immediately sent an express for Mr. Kirkland, and they combined, issued warrants for the apprehension of the slave murderers; but all my endeavours to persuade the Custos to apprehend the free people, proved unavailing; he would not, although the poor slaves gave up their names as the authors. In the mean while, the Custos wrote to Mr. Attorney General for instructions how to act, but this caused a week or 10 days delay, which enabled the free people to swear secresy together; at the instance of Mr. Attorney General the free people were now brought up for examination; the Custos, Mr. Kirkland, and the Clerk of the Peace examined them, but they would not permit my interference at this time; thus they could not get anything out of them, and they were accordingly discharged.

The four poor slaves were tried and executed, but justice has never yet been satisfied.

His Excellency will here perceive the Custos's apathy, in not granting the warrant, to apprehend the free people concerned, who were actually the murderers, and this apathy was marked by ignorance, because in the face of the law which justified a warrant in case of even suspicion, he refused granting it on such strong presumptive proof.

Jamaica Ss. St. George.

Henry Sterne, of the aforesaid parish, gentleman, being duly sworn, maketh oath and saith, that the foregoing statement is a copy of the further statement and charges, preferred by him to His Exellency, the Marquis of Sligo, Governor of Jamaica, &c., &c., against The Honourable John Bell, Custos Rotulorum, and Chief Judge for the aforesaid parish.

And further this deponent swears, that such statement, and charges, are just and true in every particular, to the best of my knowledge and belief.

So help me God,

HENRY STERNE,

Sworn before me this 5th day of January, 1835.

FREDERIC WHITE.

Copy Answer.

The King's House,
1st December, 1834.

SIR,

I have received and submitted to His Excellency the Governor, your letter of the 27th ultimo, with several enclosures transmitted to you by Mr. Sterne, and the whole has been referred to Mr. Custos Bell for explanation.

As you allude to the case of Mrs. Clarke, it may be proper to notice, that after a very long and minute investigation into that complaint, Mrs. Clarke was fully acquitted, and her innocence entirely established.

I am, Sir,

Your obedient Servant,

W. G. NUNES,
Secretary.

To Charles Harvey, Esq.

The King's House,
12th December, 1834.

SIR,

The statement made by Mr. Sterne which accompanied your communication of the 27th ultimo, having been investigated under the direction of His Excellency the Governor, I am to acquaint you, that the accusations of that person, against the Custos of the parish of Saint George, are totally unfounded and frivolous.

I am Sir,

Your obedient Servant,

W. G. NUNES,
Secretary,

To Charles Harvey, Esq.

To His Excellency, the Most Noble, the Marquis of Sligo, Governor of Jamaica, &c. &c.

May it please your Excellency,

Your petitioner, a humble individual of the parish of St. George, makes bold to approach your Excellency, for a redress of grievances of a most serious tendency.

Your petitioner most humbly urge, that as your Excellency is the great fountain head of Justice in this country, your petitioner being a British subject, has a claim to your Excellency's support and consideration.

Your petitioner, though an humble individual here, can nevertheless boast of his parentage and connections; he is kinsman to the Right Honourable Henry Hobhouse, one of his Majesty's privy council, and who, for many years served his Majesty's government in the Home Department, with Sir Robert Peel, and from whom your petitioner, can produce letters touching such relationship, as well as from another of his brothers.

Your petitioner can refer your Excellency to many highly respectable individuals of this country, who can attest either as to himself or his family; Mr. Barrister Panton of Spanish Town, was personally acquainted with your petitioner's family; his father, the late Colonel Panton, was the sole cause of your petitioner's first visiting this colony, now 19 years ago; your petitioner therefore humbly solicits your Excellency's patient hearing.

Your petitioner forwarded, through the hands of Mr Harvey, his solicitor in Spanish Town, some time back, a long list of charges against Mr. Custos Bell, the Chief Magistrate of this parish, but which your Excellency's secretary, thought proper to designate as *unfounded and frivolous*; since which period, your petitioner has had some weeks illness, and has been most cruelly persecuted by some two or three of the Magistracy in your petitioners neighbourhood, friends of the Custos.

On one particular point of persecution, your petitioner has thought proper to seek redress through the medium of the law, the ensuing Grand Court; but your petitioner most humbly craves your Excellency's protection, and redress of wrongs, which he has received from the Special Magistrate of this parish, Mr. Frederic White; your petitioner has been most wantonly vilified, insulted, and abused by this Gentleman; Mr. Justice White sat as a Judge at the Quarter Sessions of this parish, on Wednesday and Thursday week last, on which days your petitioner was the prosecutor, at suit of the King against two apprentices, for trespass and larceny, connected in the case of Miss Matthews, which was the ground of charge preferred by your petitioner against Mr. Custos Bell; true Bills were found against them, and one, the least guilty, was clearly convicted, adducing in public by the witnesses, the clearest grounds for your petitioner's charges against Mr. Custos Bell; the second one which would have been still clearer, was

not allowed by the Magistrates to be brought to trial, well knowing it would have made greater exposure, and when your petitioner urged the trial to their worships on the bench, he was publickly taunted by them, say, Mr. Justices Swire and White, we have decided already, you may go and write to the King's House if you think proper; your petitioner therefore most humbly trusts, that your Excellency will appoint a special commission of Magistracy, to investigate into my complaint against Mr. Custos Bell.

But to the point against Mr. Special Justice White; your petitioner visited Spanish Town immediately after the Quarter Sessions, and while absent, your petitioner's wife was assaulted with obscene abuse, by a part of Miss Matthews's family, the lady referred to in my charges against Mr. Custos Bell; the result was, that an apprentice of your petitioner's, and who is a sworn in special constable, being directed to do a certain duty, was assualted and abused by an apprentice of Miss Matthews, the very apprentice against whom a true bill of larceny was found, through the instrumentality of this very special constable.

Your petitioner's special constable being thus assaulted and abused, went and lodged a complaint before Mr. Justice White, who it appears, was secretly burning in heart, for an opportunity to punish him; Mr. Justice White, instead of hearing his complaint and redressing his grievance, abused and swore at him, that he would on the following Tuesday, which was Tuesday last, the 13th, commit him to jail, and sent him back home, with the following note to Mrs. Sterne, your petitioner's wife:—

Kildare House, St. George,

January 10, 1835.

Madam,

I request you will attend at Buff Bay Court House, on Tuesday, the 13th Instant, at 10 o'clock, a.m., that I may investigate the matter between your servant David Clarke, and Sarah Matthews, the property of Miss Matthews.

FREDERIC WHITE,

Special Justice.

To Mrs. Sterne, Buff Bay.

When your petitioner returned from Spanish Town, he found matters thus; at first he did not intend to permit Mrs. Sterne to attend the Court, but learning how Mr. White was sorely set against the poor man, he attended with Mrs. Sterne, to see

justice done, when the most oppressive and disgraceful scene ensued; Mr. Justice White was on the bench, and as soon as he perceived the parties, with an oath he called the man David Clarke forward, and he being the accuser, was sworn, and having given a clear and plain statement of the facts, which was at once simple and to the purpose, he was about to scold the accused party, when up stepped a volunteer apprentice belonging to another party, who stated that he was present, and gave it out that your petitioner's apprentice was as bad as the one he was accusing. whereupon Mr. Justice White swore at your petitioner's man, and was about to commit him, when your petitioner solicited him to hear evidence, a young Gentleman, clerk to your petitioner, was called up and sworn, who supported the testimony of your petitioner's apprentice; Mr. Justice White on this, being anxious at any hazards to punish the man, under a feigned shew for Justice, sentenced both the accuser and accused to one week's hard labour in the workhouse; your petitioner indignant at such unjust treatment stood up, and addressing his worship remonstrated, saying he stood there in defence of his apprentice, and he hoped his worship would hear Mrs. Sterne's evidence in his behalf, for which purpose she had attended in obedience to his own summons, but his worship perceiving that the evidence of Mrs. Sterne must clearly release him, refused to listen thereto, and with expressions of malicious exultation, committed the poor man; Mr. Sterne your petitioner again and again urged, calling his worship's attention to a circumstance which took place only a few weeks before as follows:—

The same apprentice and special constable, David Clarke, had brought up before his worship, another apprentice of Miss Matthews, for insolence and insubordination in your petitioner's yard, the proof was clear, and his worship committed the apprentice for two weeks to hard labour; but at the moment, in stept the Honourable John Bell, at whose bare suggestion (he being a friend of the apprentice's mistress) Mr. Justice White called back the already sentenced, and released her; on your petitioner calling this to his worship's recollection, *and there sat present the Custos*, his worship in a most heated and abusive manner, vilified your petitioner from the bench; he taxed him as having been the man who had written to your Excellency against him, and in unmeasured terms abused him for such, telling him, that he may go and do so again; at your petitioner's replying that he had never wrote aught to your Excellency about him, *(which Your Excellency knows full well is he truth)* he threatened to commit him if he dared to open his mouth, and insisted upon the policemen to force him out of his Court, saying he would not allow such a fellow to be in his Court, to watch and report of him; your petitioner had to take Mrs. Sterne out

of Court, and having seen her home, returned to the Court for an explanation, at which time, Mr. Fishburn the other special Magistrate was there, but Mr. White would not permit your petitioner to remain, insulting and abusing him, unbecoming the dignity of an ordinary Gentlemen, much more that of one of His Majesty's Justices in Court sitting; he made the policemen lay violent hands on your petitioner, and forced your petitioner out of Court, giving the policemen orders, that for the future, they were never to permit your petitioner to set a foot inside of his Court, and strongly advising his associate, Mr. Fishburn, to act the same way, as your petitioner was a dangerous character, and would report him.

Your petitioner is much pained to have to thrust himself forward to expose these and other truths, but your petitioner is seriously aggrieved, and never witnessed such imperilous, tyrannical, and oppressive conduct, even amongst the local Magistracy, during his 19 years of residence in this colony.

Your petitioner boldly asserts, that Mr. White has succeeded in quieting the lower orders, not by tending out Justice, but by driving into the minds of the apprentices here, an absolute dread to come close him.

Your petitioner has personally seen the most dreadful and heart-rending lacerations for the most petty offences; your petitioner now and and then visits his Courts on Tuesdays, and when he does so, invariably takes the abolition law with him, and it was only 3 weeks since, that your petitioner instanced a direct violation of the law, in Mr. White's sentencing an accused apprentice, to a greater number of stripes, than the law for the offence empowered him to do, at which time, your petitioner got up, and shewed the very law to two or three individuals then present; at the time that your petitioner is now writing, your petitioner's apprentice remains confined in irons, and at hard labour, for no offence, but for having faithfully obeyed the orders of his mistress; so gross has been the malice and oppression of Mr. White, that your petitioner considers himself in personal danger, and most humbly prays your Excellency's immediate interference, for all of which your petitioner will ever pray.

HENRY STERNE.

Buff Bay,

Monday, January 19, 1835.

SIR,

I take leave to forward to your care a petition of mine, addressed to His Excellency, the Marquis of Sligo, Governor of this Island, which petition, I humbly urge may not be delayed, as the subject matter thereof, is urgent to be redressed.

It is my wish and desire, that such petition may be forwarded home to the Colonial Office, along with the charges already referred by me, to His Excellency, through my solicitor, Mr. Harvey, against Mr. Custos Bell.

I have the honor to be,
Sir,
Your most obedient humble Servant,
HENRY STERNE,

Buff Bay, 19th January, 1835.

To W. G. Nunes, Esq., Secretary,
King's House.

The King's House,
January 25, 1835.

SIR,

It was not in my power to attend yesterday, to your note of that morning, wishing for an interview on the subject of the papers of Mr. Sterne, which you forwarded, to be laid before his Excellency the Governor.

To avoid the chance of any mistake or misapprehension, which all conversations are liable to; you will oblige me by stating in writing, whatever you may wish further to communicate on that matter. If it is Mr. Sterne's desire that his representation relative to the Custos of the parish of Saint George, should be transmitted to the Colonial Office, his Excellency will do so, accompanying it with such remarks as he may think the merits of the case deserve; as to the present complaint against Mr. White, before making any reference to the Secretary of State, His Excellency will investigate the circumstances detailed by Mr. Sterne, and send the result, with Mr. Sterne's account, for the purpose, of the whole transaction appearing in such a state, as to require no further reference to Jamaica, for the Colonial Secretary to form his conclusions.

I am Sir,
Your obedient Servant,
W. G. NUNES, Secretary.

To Charles Harvey, Esq.

Spanish Town,
January 29, 1835.

SIR,

My absence from town for the last three days, prevented my giving earlier attention to your letter on the subject of the papers of Mr. Sterne, forwarded to be laid before His Excellency the Governor.

I am now to avail myself of the opportunity, afforded by addressing this communication in reply; as regards the accusations preferred by Mr. Sterne against the Custos of the parish of Saint George, I had not consented to be the organ of communication, until I had cautioned Mr. Sterne on the unfairness of seeking to impugn the motives or conduct of a Magistrate, or of any individual, without such a reasonable cause of grievance, as would justify an appeal to his Excellency, and without also having evidence to adduce, to substantiate the statements of the case; to those suggestions, I am informed that, Mr. Sterne was compelled to that proceeding, by a series of acts of secret hostility on the part of the Custos, in which his Honor being ignorant of, or under misconception of certain facts not brought judicially under his cognizance, had evinced his aid and partiality in a question of right, to a degree subversive of the principles of Justice and of non-intervention, which become his judicial rank, and that therefore Mr. Sterne in preferring his complaint, had desired no more than that a strict investigation should be had, in the course of which, he would be prepared to bring forward the requisite proof. The controversy to which as Mr. Sterne alledges the Custos gave his aid, originated in certain offensive and illegal proceedings, adopted on the part of the proprietrix of a house and premises occupied by Mr. Sterne, on a tenure for years, the object of the Lady being to compel Mr. Sterne to surrender his residence, in order to gratify her unreasonable desire to resume her possession before the termination of the lease. Having no other place for the accommodation of his family, and being anxious to protect his paramount right, Mr. Sterne on the occasion of a specific act of trespass, had recourse by application to the Custos, in his character as a Magistrate, to restrain the party committing the offence. The nature and object of that application, made on the oath of a party complainant, in a judicial form, and before a Magistrate, and in a matter of grievance requiring redress; and the alledged evasion by his Honor the Custos, of what Mr. Sterne humbly conceived, to have been the duty of that Gentleman, as a Magistrate, being already detailed in the documents laid before His Excellency, it is unnecessary for me to recur to the facts. In obeying Mr. Sterne's directions, I anticipated equally with himself, that the complaint would be referred for local Magistra-

tion, and that according to the result, His Honor the Custos would be reminded of one of the most sacred principles of judicature, not to place his varying opinions against the established rules of the law, and that Mr. Sterne if in fault, would himself, be exposed to the obloquy and danger, which an unfounded accusation would merit.

It was therefore not without regret, that after the receipt of your letter which intimated the result of the expected investigation, and the conclusion which I am led to infer, His Excellency had arrived, namely that the accusations of Mr. Sterne against the Custos of Saint George, were "*totally unfounded and frivolous*," a conclusion, which I had hoped, had set the matter at rest; I received a communication from Mr. Sterne, conveying in calm, yet resolute terms, his disbelief that the supposed investigation had been had, and consequently referring to my professional advice, whether a remonstrance should not be made, on the epithets "*unfounded and frivolous*," affixed to your letter.

To my enquiries I am assured, that nothing in the shape of an investigation, or enquiry into the merits of the case, had taken place in the parish of Saint George, that Mr. Sterne had reason to know that the Custos had not been out of the parish since the 1st of December; that Mr. Sterne being acquainted with every magistrate then residing in his neighbourhood, and also the clerk of the peace, had facilities of learning whether an investigation had actually taken place, and that the only investigation, if such it could be called, was a communication from you to the Custos, transmitting to him the charges preferred, and which His Honor had merely returned to you with a short letter of reply. On learning the result, I did not at first think it requisite to advise any further enquiry into the matter, believing that an object had been gained by the fact of a communication that had been made, which might tend to prevent the recurrence of irregularity.

The interval however of a very few days, during which a Mr. Sterne has reason to believe, the fate of his appeal had been communicated by the Custos, created a revulsion of feeling on the part of the local magistracy, which not being satisfied with private ebullition, has openly shewn itself by instances of personal insult, from some of the magistrates at least, towards Mr. Sterne, while acting in their judicial character in court.

The result since the supposed investigation has been as Mr. Sterne believes, a determination on their part to evade their judicial duty by opposing their resentment in every matter wherein he is concerned; *(should Mr. Sterne, require its pro-*

tection, the law is not conceded to him. His property is consequently exposed to insecurity, his lawful occupations are disturbed, his industry has been fettered, his pursuits perplexed, and why, because that for the exposure of injustice, and for the sake of truth, Mr. Sterne has preferred charges against an individual more powerful than himself in point of wealth; if these things be permitted, Mr. Sterne can arrive as I submit, can any reasonable man, but to those conclusions, that in the jurisdiction and locality in which Mr. Sterne has his residence, the stream of justice is reserved for the parasites of the few, that a mere formal reply, perhaps evasive in itself to charges of a serious and public nature, preferred against a public functionary and offered to be substantiated on oath is by acceptation termed an investigation, that because an individual complained against is possessed of influence and wealth, his mere assertion should be taken, in answer to charges seriously preferred, or finally (for Mr. Sterne can but come to this painful conclusion) that Mr. Sterne is not of the "*consumerenati*" who alone are entitled to any consideration in that part of the colony.

Under these circumstances and to quiet any doubts which exist in this matter of a public wrong, I am humbly to submit to the consideration of his Excellency the Governor, the request of Mr. Sterne, that his Excellency will be pleased to issue a special commission directed to any three of his majesty's justices for the parish of Saint George, (not being resident in the neighbourhood of Buff Bay) to investigate into the charges against his honor the Custos, with power to call parties before them and to examine witnesses on oath, and to report their opinion and the examination in writing, to be laid before his Excellency; and in case his Excellency should consider the charges substantiated, or that other reasonable cause should exist, then Mr. Sterne requests that his representation, together with the report, or the desired investigation before the local magistracy, be transmitted to the Secretary of State for the Colonies, accompanied by such remarks as his Excellency may think the merits of the case deserve; I suggest the expediency of a local enquiry in the first place, as being the more regular and impartial proceeding; and in case, upon solemn investigation, the accusations should eventually be found "*frivolous and vexatious*" then the vexations will be equally exposed, and the alternative of a further appeal will be rendered unnecessary.

With respect to the complaint against Mr. Justice White, Mr. Sterne I am instructed, will be well satisfied to await his Excellency's investigation into the circumstances detailed in his representation against Mr. White, already transmitted to His Excellency.

As an enquiry however into the motives which prompted that gentleman's hostility, is collaterally incident to the matter, it may be right to have in view whether Mr. White's judicial authority is limited, to the duties under the Act for the abolition of Slavery, or extends also to the general commission of the peace, In either case, I am authorised to say, that whatever be the cause, the display of that authority, as against Mr. Sterne, has, exclusive of the personal violence detailed in the representation transmitted, been productive of an act of oppression, extending to the caption and sale of his property, under circumstances which remain to be investigated in the court of law, and which at any rate, have wrought an immediate publick injury, by the closing up the wharf at Buff Bay, and preventing the lawful occupation of an industrious member of society.

I have the honor to be, &c.

CHARLES HARVEY.

To W. G. Nunes, Esq.

Secretary, King's House.

The following affidavit of Mr. Sterne's was sent with this letter.

Jamaica, Ss.
In the Supreme Court.

Lemasney, qui Pam, v. Sterne, Henry.

In a matter of an application for a writ of Certiorari.

HENRY STERNE, of the parish of Saint George, in the Island aforesaid, Wharfinger, being duly sworn, maketh oath and saith, that on or about the 6th day of January instant, after sunset of the same day, this deponent being then as now, and for some time past, Lessee and Wharfinger of a certain wharf, called Kildare wharf, situated at Buff Bay, in the parish of St George, in this Island, received from one M. F. G. Lemasney, the overseer of Kildare Estate, in the same parish, a note or requisition in writing, to the following effect, that is to say,

Mr. Sterne,

Sir.

You will oblige me by sending per bearer, the weights of the sugars last shipped from this Estate.

I am, Sir,
Your obedient Servant,
M. F. G. Lemasney.

Kildare, January 9, 1835.

And this deponent further saith, that Kildare Estate being situated in the immediate neighbourhood of deponent's wharf, and the sugars last before shipped from the Estate, as well as all other produce shipped, having been shipped according to invariable custom, under the personal direction of the overseer or party shipping the same, without any requisition being made to have the sugars weighed, and without the sugars being weighed at the wharf, all which circumstances as deponent saith were sufficiently known to Mr. Lemasney, and were by him and all other shippers, tacitly approved and recognized as matters of reciprocal convenience and custom, and deponent being consequently unable to furnish the weights, and not understanding the object intended by such postponed requisition, this deponent returned a verbal message by the bearer, that the deponent would give an answer on the following morning, when deponent expected to see Mr. Lemasney on other business.

And this deponent saith, that on Thursday, the 8th day of January instant, this deponent being unable to furnish the weights of the sugars, was visited by a constable of the parish of Saint George, who read to this deponent, a certain document or warrant which he held in his hand, purporting to narrate a complaint on the oath of the said M. F. G. Lemasney, made before one Robert Baugh Esq., therein designed one of His Majesty's Justices of the Peace for the parish of Saint George, against this deponent, by his name and addition of Wharfinger at Buff Bay, for having refused to give to the said M. F. G. Lemasney the weights of certain hogsheads of sugars sent to the said wharf by him to be shipped, whereupon this deponent was verbally required by the constable but without deponent being served with a copy of the warrant to appear before the said Robert Baugh, and Roger Swire and Frederick White, two of the Justices for the parish aforesaid at the Court House Buff Bay on Saturday the 10th day of January instant, to answer to the said information and complaint, as by a true copy of the said warrant hereunto annexed, certified by the deputy clerk of the peace of the parish of Saint George, to which deponent craves to refer, more fully appears.

And this deponent further saith, that in obedience to the said warrant and notice, this deponent attended at the Court House at Buff Bay, on Saturday, the day appointed by the warrant, about the hours 11 o'clock at noon, when the said complaint came on to be heard, the said Robert Baugh, and his associates, Roger Swire and Frederic White, the justices aforesaid being there sitting in judgment, the said Robert Baugh being the magistrate presiding, and attended by Robert Dunbar, the deputy clerk of the peace, and Mr. Lemasney the informant,

being also present to give evidence in the matter of the complaint.

And this deponent saith, that the matter of the complaint being called, and deponent having for the first time, obtained a copy of the warrant which informed him, that the complaint was for certain penalties under the wharfage law, this deponent urged by way of demurrer, that the charge brought against this deponent was not an offence, or if so, at least it was not an offence of which the Justices had cognizance under the law, an argument which deponent offered to support, by the opinion in writing of eminent counsel, in special relation to the wharfage law, which deponent had then in his hands, to which Mr. Justice Swire, who seemed to deponent to prompt to the Court the form of proceeding, replied that on reference to the third section of the act. (meaning the general wharfage act) he was satisfied on the point that the Court had full authority to proceed, that their own opinion, (meaning the opinion of the Court,) was better than counsel's, and Mr. Justice Swire having read out the last clause of the act, and addressing himself to deponent, remarked under some feelings of excitement, you must not presume to dictate to the Court, there is no appeal for you, we have it in our own hands; and in consequence, deponent's demurrer to the jurisdiction of the magistrates was overruled.

And this deponent saith, that Mr. Lemasney being sworn, and called to give evidence, stated on his oath, that he had written to deponent, requiring the weights of the sugars last shipped from Kildare Estate, that he had not heard from deponent, nor received the weights; and this deponent saith, that he, this deponent, having urged in his defence, that no legal application from Mr. Lemasney had been made, this deponent submitting to the magistrates, that the note which he had received, being for the particulars of the weights of sugars, which had been shipped with the express approbation and knowledge of the informant, and without being weighed at the wharf, and which at the time of the requisition for the weights, it was physically impossible for deponent to weigh: the aforesaid note received from Mr. Lemasney, in conjunction with his evidence, that he had not received the weights, was held conclusive by the justices as against this deponent, whereupon the justices proceeding to determine, found that this deponent had incurred a penalty, under the act of the legislature of the Island, entitled "For the general regulation of wharfage and storage," and the justices thereupon ordered this deponent immediately to pay the sum of £25. current money of Jamaica, and £5., the costs of the prosecution, for which sums accordingly, a warrant of distress under the hands and seals of the said justices, was immediately issued against this deponent, with directions in

default of payment, to levy by distress, and sale of the goods and chattels of this deponent, the sum of £30. current money of the Island, with the costs attending the same, as by a copy of the said warrant, obtained by this deponent from the constable to whom has been entrusted the execution thereof, hereunto annexed, and to which deponent craves leave to refer, more fully appears.

And this deponent further saith, that during the hearing of the complaint as aforesaid, and of this deponent's defence, the facts adduced in evidence by this deponent, and supported by the testimony of the informant himself, that the note last before mentioned, was the first application of the kind which had been made; that the invariable custom of planters and shippers was, not to weigh sugars, or require them to be weighed at the wharf that the Kildare sugars especially, were always kept under the personal controul of Mr. Lemasney the informant, and were stored at his special request, in a separate building adjoining the wharf, not being the safety stores of the wharf; that Mr. Lemasney had himself interfered with the regulations of the wharf, by not delivering the sugars in the wharf stores; that a receipt had been given for the sugars, which was all that was originally required; and moreover, that under the construction of the law, this deponent, protected by the general custom of wharfingers, was not bound to weigh sugars shipped from his wharf, without being thereunto specially required, were severally rejected by the magistrates as inconclusive, and insufficient to protect this deponent against the penal operation of the law; Mr. Justice White for himself, simply enquiring of this deponent, have you weighed the sugars? and forming his opinion, as deponent believes, from the fact that the sugars were not weighed.

And this deponent saith, that during this deponent's argument, *that the substantive matter of complaint against deponent for refusing to give weights, was not within the cognizance of the justices, and that the omission of the party informant himself, in never requiring the sugars to be weighed, was sufficient in law, to protect this deponent from the general operation of the act*; the justices presiding expressing their reluctance to listen to the defence, frequently interrupted deponent in his argument, and continually rose up, first one and then another, from their seats on the bench; Mr. Justice Swire in particular, impatiently remarking, " come let us fine him, and have done with it" and also remarking, to deponent's suggestion that the Court should hear out patiently his defence, " it is all nonsense, we want to know what you are aiming at, when the case is already proved."

And this deponent saith, that the justices being resolved to

conclude, gave directions to their clerk to fine this deponent, whereupon, the clerk enquiring the amount of the fine, Mr. Justice Baugh remarked, there is the law, fine him to the full extent of it, to which Mr. Swire observing that the fine might be either £5. or £50., it was ultimately fixed at £25., with the costs of prosecution, a decision to which the three justices aforesaid assented; and in consequence, the warrant herein before mentioned was issued against this defendant, for the amount of the said penalty and costs.

And this deponent saith, that on Monday, the 12th day of January instant, this deponent was visited at his residence by a constable, who, producing to deponent the original warrant which this deponent saw was filled up for a levy of £25. with the costs, enquired of deponent what he intended to do, whereupon deponent remarking that he was not prepared to pay, and besides, that the constable could not levy for costs; the constable pleading his directions from Mr. Lemasney to make an immediate levy, and lose no time, and against this deponent's request for delay, at least until the following day, proceeded to execute the warrant, by a levy, and accordingly levied on deponent's furniture to the value, in the whole of £48. or thereabout, and which furniture, has only been permitted to remain in the custody of deponent, on his personal guarantee to deliver it up on Tuesday next, the 20th instant, the day advertised by the constable for a sale, under the said warrant of distress, and on which last before-mentioned day, the same as deponent saith he verily believes the furniture is intended to be sold.

And this deponent saith, he verily believes that the conduct of the said M. F. G. Lemasney, in laying information and complaint as aforesaid against this deponent, and throughout the proceeding, was instigated by some vindictive or malicious feeling against this deponent, and to which this deponent, in his conscience believes, the justices gave their aid, with the intention of injuring and oppressing this deponent; and not as deponent believes, from motives of policy or justice prompted for the public good; *and this deponent saith, that being so advised, he verily believes that the said proceedings were irregular and illegal, and that the authority of the justices was prostituted to purposes of oppression, as against this deponent, under color of the law.*

And this deponent saith, he humbly submits, being so advised, that he is entitled to a remedy for the injury which he has received, by means of the said information and warrant, and proceedings of distress thereunder. This deponent therefore humbly prays, that a writ of certiorari may be forthwith

issued under the seal of this Honourable Court, directed to the said Robert Baugh, Roger Swire, and Frederic White, the justices aforesaid, to the clerk of the peace for the parish of Saint George, or his deputy, for the removal of the record of the said proceedings and warrant into this Honourable Court.

So help me God,
HENRY STERNE.

Sworn before me, this 16th day of January, 1835,
JOHN WEPPLER.
(By commission.)

Memorial 2.

To His Excellency the Most Noble the Marquis of Sligo,
Governor of Jamaica, &c. &c.

May it please Your Excellency,

Your petitioner most humbly approaches your Excellency for your support and protection—

In consequence of your Excellency's *non-interference* with your petitioner's petition already sent forward, *your petitioner is in a manner ruined—all his prospects in this part of the Colony are blasted—his property under color of the law is wrenched from him—his business is totally destroyed—he has been compelled to surrender up his wharf to another—his outstanding debts he is unable to collect in consequence of the injustice of the Magistracy.*

Your petitioner went this morning to the court house, amongst others, to apply for magisterial aid under the new petty debt act, when your petitioner was singled out from others, by Mr. Special Justice White, who was not at the time sitting in his judicial capacity, but parading the court house, and in conversation with two other gentlemen, and orders were given by him to the constable to force your petitioner out of court, notwithstanding your petitioner urged that he attended there to meet the Magistrates in special sessions on business, Mr. White insisted and made the constable, Mr. Edward C. Burgess, lay violent hands upon your petitioner and force him out of court, at the same time boasting that he had your Excellency's own positive instructions so to do.

Your petitioner on being forced out, sent in the accompanying document by the constable, requiring Mr. White to sign it in his capacity as a magistrate, under the petty debt act, but Mr. White refused to attend to it, and it was returned to your petitioner unheeded. Thus your Excellency will perceive that your petitioner has neither the protection of the law either for his person or property.

Your petitioner humbly leaves his case in your Excellency's hands, and will as in duty bound for ever pray.

Buff Bay, HENRY STERNE,
Tuesday, 3rd February, 1835.

Sir,

I again take leave to forward to your care a further petition of mine addressed to His Excellency the Marquis of Sligo, Governor of this Island, which petition I earnestly intreat may not be unheeded, as inevitable ruin must be the result to both myself and family.

It is my wish and desire that such petition may be forthwith forwarded home, along with the former, and other papers to the Colonial Office.

I have the honor to be, Sir,
Your most obedient humble Servant,
HENRY STERNE.
Buff Bay, February 3, 1835

To
W. G. Nunes, Esq. Secretary,
King's House.

[1317] The King's House, 7th February, 1835.

Sir,

In reply to your memorial which accompanied a letter, bearing date 3rd, instant, in which you complain of non-interference with your petition, it is proper to correct such a mistatement.

What you have urged against Mr. Custos Bell, in the first instance, *was inquired into*, and the result communicated. With this you were dissatisfied, and on a recent occasion, after making a further representation, it was signified by your solicitor, to be your wish, that the whole should be forwarded to England.

The papers relative to Mr. Bell are in preparation for such purpose accordingly, and will go by the first mail.

I am however to acquaint you, that His Excellency does not consider it necessary to forward your complaint against Mr. White, no reference being now necessary as regards any alleged impropriety of conduct, that gentleman being no longer in the magistracy.

I am, Sir,
Your obedient Servant,
W. G. NUNES, Secretary.

P.S. You will be pleased to understand, that if it be still your wish that your statement should be forwarded to the

Colonial Department, as relates to Mr. White, His Excellency will of course attend to it.

W. G. NUNES, Secretary.

To Mr. Henry Sterne,
Buff Bay, St. George's.

To W. G. Nunes, Esquire,

SIR,

Your letter from the "King's House," dated the 7th instant, I duly received, and now take leave to reply.

My allusion in my petition of the 3rd instant, to the "*non-interference*" of His Excellency with my former petition, and statement of charges against Mr. Custos Bell, I conceived to be correct, as circumstances led me to conclude it had passed unnoticed, for I found myself *daily insulted* by the very Magistrate I had memorialised against; I was therefore naturally prompted, to point out the evil arising from such seeming *noninterference*, so as to *arouse* His Excellency's *earnest* consideration on my behalf.

I respectfully beg to offer some remarks as to that part of your favor before me, wherein you state "what you have urged against Mr. Custos Bell in the *first* instance, was *enquired* into, and the result communicated." On reference to your letter of the 12th December last, to my solicitor, Mr. Harvey, you therein declared, that the statement made by me, "*having been investigated under the direction of His Excellency the Governor, was totally unfounded and frivolous*;" it is of this, that I feel the want of attention to my case; because my statement laid before His Excellency the Governor, being under the sanctity of an oath, I consider of itself, sufficient to demand other explanation, than the mere ipsidixit reply of the Hon. Mr. Bell's; had an *investigation* taken place, as is asserted in your letter of the 12th December, I am convinced that sufficient truths would have appeared, which would have been the means of convincing His Excellency, that my allegations were not "*totally unfounded and frivolous*."

Your favor of the 7th instant, informs me that my complaint against that gentleman was *enquired* into, and with which I was dissatisfied; this is certainly strictly correct; I am dissatisfied, because I cannot tacitly submit to my oath being laid aside, and a mere formal reply of Mr. Bell's taken in opposition thereto.

Again, I must respectfully observe, that my solicitor's letter on my behalf, does not signify it to be my wish, "that the

whole of my petitions should be at once forwarded to England," but he therein states it to be my desire, that a " strict investigation should be first had, in the course of which, I (he) will be prepared to bring forward the requisite proof."

To avoid any further misunderstanding as to the object required by me, I respectfully beg leave to submit to His Excellency's consideration, my desire, that His Excellency will be pleased to issue a special commission, directed to any three of His Majesty's justices for this parish, (not being resident at Buff Bay,) to *investigate* into the charges against His Honor the Custos, with power to call parties before them, and to examine witnesses on oath, and to report their opinion, and the examination in writing to His Excellency, the result will then carry with it the truth of my complaint, or the falsity of the same; in failure of this my humble desire being granted to me, then it is my wish, that the whole of my petitions and charges touching the Honourable Mr. Bell, be forwarded to England by the first mail, with copies of your communication to me and my solicitor, and our respective replies thereto.

As regards my complaint against the splenetic and oppressive conduct of Mr. White, it is my wish, as that gentleman has met his reward, that my memorials should be delayed till His Excellency's determination is known to me, as to my complaint against Mr. Bell. *If I am compelled to the remedy of forwarding the charges made by me against Mr. Custos Bell home to the Secretary of State for the Colonies, then I should wish my two representations against Mr. White to be also forwarded*, as it will be the means of exposing *his* conduct, and the oppression I have suffered, all of which I lay at the Custos's hands, he being the origin of the same, and chief Magistrate of the parish.

I have the honor to remain, Sir,

Your most obedient humble servant,

Buff Bay, HENRY STERNE.

10th February, 1835.

[1319] The King's House, 7th February, 1835.

Sir,

With reference to your letter of the 29th ult, and the several documents respecting Mr. Sterne's complaint against Mr. Custos Bell, and Mr. Justice White, I beg to acquaint you that I have, by His Excellency's commands, communicated direct with Mr. Sterne on the subject.

I am, Sir,

Your obedient Servant,

To Charles Harvey, Esq. W. G. NUNES, Secrety.

[1451] The King's House, 20 February, 1835.

Sir,

In reply to your letter of 10th February, (received two days ago), which has been submitted to His Excellency the Governor, I am to acquaint you that your complaints against Mr. Custos Bell have been sent home already by the last packet.

I am, Sir,

Mr. Henry Sterne, Your obedient servant,

Buff Bay. W. G. NUNES, Secretary.

To the Right Honorable the Earl of Aberdeen.

My Lord,

I take leave most respectfully to approach your Lordship, on a subject matter of great importance to myself and to many others, who are anxiously awaiting the result of my application.

The enclosures, My Lord, from No. 1 to 14, are copies of sundry correspondence between myself and His Excellency the Marquis of Sligo, Governor of this Island, &c. From them your Lordship will learn that I have applied to his Excellency for a redress of grievances of serious tendency, which I have received through the Honourable John Bell, the chief Magistrate for the Parish of Saint George in this Island, but that I have appealed in vain.

It is clear to be seen, that from His Excellency's not taking my first appeal into consideration, I have suffered and been oppressed most seriously, and as it appears from No. 14, the last communication I received, that the charges preferred by me against Mr. Custos Bell, had alone been sent to your Lordship, I have thought it advisable to draw up a copy of the whole correspondence and to forward the same to your Lordship, so that your Lordship may at once be in possession of the whole facts. I have most humbly to solicit your Lordship's gracious interference. Mr. Custos Bell has most grossly violated his duty in his magisterial capacity, and set at nought the laws of the land, and I most humbly intreat that your Lordship will direct that the prayer of my petition, as addressed to His Excellency the Governor here, may be attended to, viz. that a special commission, of any three Magistrates for the parish of Saint George, be appointed to investigate into the charges, preferred by me against the Custos, and to report the same accordingly, so that he may receive that censure from your Lordship, which his unjust conduct deserves, and which will no doubt tend to much *public good.*

Your Lordship, will I hope, pardon the liberty I have taken and the trouble I may cause your Lordship; I have thought it more advisable to address your Lordship direct upon the subject, than any of my personal friends in England, leaving the matter therefore in your Lordship's hands,

I have the honor to subscribe myself,
Your Lordship's most obedient humble Servant,
HENRY STERNE,
Buff Bay, Saint George's, Jamaica,
Wednesday, March 4, 1835.

To the
Right Hon. the Earl of Aberdeen,
Colonial Office, Downing Street, London.

[2995] The King's House, May, 1835.

Sir,

The accompanying dispatch and enclosures, having been received from the Colonial Office, I forward them by the direction of His Excellency the Governor for your perusal and guidance, after which you will return them to me.

I am Sir,
Your obedient Servant,
W. G. NUNES, Secretary.

To Mr. Henry Sterne,
Buff Bay.

[4890] Downing Street, April 8, 1835

My Lord,

A communication dated the 4th March last has been received at this department from Mr. Henry Sterne but not having been transmitted through the Governor of the Colony, according to the existing regulations, I am to request that you will forward to him, the enclosed copy of these regulations for his information, and request him to conform to them, in such steps as he may think it necessary to take, for bringing the subject of his letter under the consideration of this department.

I have the honor to be, my Lord,
Your most obedient humble Servant,
ABERDEEN.

To the
Marquis of Sligo.

[4890] Downing Street, April 20, 1830.

Sir,

Much inconvenience has arisen from the transmission of representations to this department, by subordinate officers, or private individuals in the colonies, without the intervention of the respective Governors; such representations must often necessarily be returned to the colonies from which they have come, in order that His Majesty's government may be furnished with the reports of the Governors upon them, or such explanations as it may be requisite to have, for the full understanding of the case; this occasions delay in sending answers to the parties making the representations, and is often otherwise prejudicial, both to their objects, and to the public service.

I have therefore to request that you will take such measures as may appear to you the most effectual, for making it generally known in the colony under your government, that, unless in cases where some especial and sufficient reason, can be assigned for a contrary course, the Secretary of State will be under the necessity of declining to entertain the subject of any representation, which shall not have been previously submitted for the consideration of the Governor.

I have the honor to be, my Lord,
Your most obedient humble Servant,
G. MURRAY.

To the
Earl of Belmore.

Downing Street, January 30, 1831.

My Lord,

Circumstances have recently brought under my consideration, the circular dispatch which was addressed to your Lordship by my predecessor, on the 21st of April last, with a view to prevent the delay in the dispatch of business, occasioned by the practice which had prevailed with subordinate officers or private individuals in the colonies, of transmitting communications directly to this department, without previously submitting them for the consideration of the Governors.

My predecessor informed your Lordship that in such cases it often became necessary to return the communications to the colony for the report or explanations of the Governor, and that the decisions upon the cases, and the answers to the parties, were thus retarded and prejudice was occasioned to the objects which they had in view, as well as to the public service.

It is especially necessary that the regular channel for

transmitting letters, should be adhered to, or copies of them, previously communicated to the Governor, when the object of the writers, is to appeal to His Majesty or to the Secretary of State, against any proceedings of the Colonial Authorities, since it would of course be impossible to form any opinion upon such a subject, unless those authorities should have had ample opportunity of explaining the views by which they had been actuated.

As however these instructions from my predecessor appear to have been misapprehended in some Colonies, I have received the King's commands to apprize you that it was not intended to prevent any of His Majesty's subjects from sending memorials or letters to His Majesty, or to the Secretary of State, through any medium, other than that of the Governor, provided copies are previously communicated to him, it being fully understood, that if this is neglected, no steps will be taken upon them, without that delay, which, unless in very particular cases, must ensue in the answer to be returned, owing to the necessity of referring the matter to the Governor, for his report upon it.

I have the honour to be, &c.

To the GODERICH.

Earl of Belmore.

[4890] Downing Street, 17th November, 1831.

Sir,

The daily inconvenience and perplexity to which this department is subjected, by the delay which is unavoidably occasioned in attending to the questions which are brought before it, by the prevalence of a method of addressing communications to the Secretary of State, either, not in conformity with the regulations laid down in the circular despatches from this office of 20th April 1830, and 30th January last, or if in nominal conformity with them, so contrived, as to defeat their obvious intentions, obliges me to recur to the subject, and to request that you will give publicity to the following remarks, for the guidance of those concerned.

It is by no means my desire to preclude or even to discourage the free resort of all His Majesty's subjects, to the highest authority in the state, for the redress of any grievances under which they may deem themselves to labour, provided they pursue the course of communication which justice and fairness to all parties concerned, as well as convenience and regularity in the despatch of public business, rendered it necessary to prescribe

The Governors of His Majesty's Colonies are the authorities

to which any of His Majesty's subjects, being in those Colonies, should have recourse in the first instance, for the correction of any evils under which they may canceive themselves to suffer. If the Governors are merely made the medium for transmitting documents to the Secretary of State, their only important functions, and the practical utility of their offices, are altogether superceded. *It is their duty to receive, with attention, all representations properly and respectfully addressed to them, and to take such decisions upon them, as may appear to the best of their judgment to be just*; or if the matter be from its nature, or from its importance, such as they do not feel themselves authorized to decide upon, to refer it with their opinion and report, to the Secretary of State. If on the other hand, although they feel themselves warranted in proceeding to a decision on their judgmen, their decision is not satisfactory to the parties concerned, it is their duty to receive the remonstances which shall be respectfully addressed to them by those parties, and if requested to do so, to transmit them to this office, always however accompanied by their opinion and report. *If the parties should be desirous for additional security, to transmit to this office duplicates of the communications which they have made to the Governor, they are of course at liberty to do so, though it would seem to be a superfluous precaution, and one which is not unattended with inconvenience. But they should understand that the subject of such duplicate papers will not be taken into consideration, until the originals shall have been received from the Governor, accompanied by his report*, or until such a period of time shall have elapsed, as shall have afforded to the Governor an ample opportunity of considering and transmitting them. It must also be understood, that should the letters transmitting the duplicates, contain any comments upon the subject matter of them, or any thing beyond a list of the papers enclosed, it will be necessary with whatever reluctance, to delay the consideration of the whole, until the additional matter shall have been referred back to the Governor for his report.

The method which, since my circular despatch of 30th January last, has been frequently adopted by memorialists to the Government, of addressing their memorials direct to this office, and only sending copies of them to the Governor on the eve of the departure of the packet, is obviously calculated, if it were permitted to have any effect, to preclude the Governor's exercise of his proper functions. There can be no occasion to make any reference to the Secretary of State, until it shall have been ascertained that the Governor is unable, or unwilling, or slow to take the measures desired by the memorialists, as to forward, if necessary their representations.

At the same time that you give publicity to this despatch,

you will be pleased to republish my circular despatch of 30th January. Both these communications have been suggested, by an earnest desire to establish the most effectual and expeditious means, of doing justice to all parties who may seek it from His Majesty's Government.

I have &c.

To the Earl of Belmore. GODERICH.

To W. G. Nunes, Esq.

Sir,

Yours dated from the King's House in May, but bearing the Spanish Town post mark, of 6th June, reached my hands on Sunday the 7th a heavy press of business prevented my replying thereto by last post; but I now take the earliest opportunity of doing so. Regarding the despatch received by His Excellency from the Colonial Department in reference to my communication to that quarter; and from which despatch it would appear, that I had not on my part complied with the existing regulations of that department.

I take leave respectfully to refer His Excellency to the following communications:—viz.

1. Henry Sterne ....To W. G. Nunes, Esq. of 19th January
2. W. G. Nunes, Esq. " C. Harvey, Esq..... 25th do.
3. Henry Sterne.... " W. G. Nunes Esq..... 3rd February
4. W. G. Nunes, Esq. " Henry Sterne ..... 7th do.

But more particularly to the

5. Henry Sterne.... " W. G. Nunes, Esq. .. 10th February

" *In failure of this my humble desire being granted to me, then it is my wish that the whole of my petitions and charges touching the Honorable Mr. Bell, be forwarded to England by the first mail, with copies of your communications to me and my Solicitor, and our respective replies thereto.*"

" *If I am compelled to the remedy of forwarding the charges made by me against Mr. Custos Bell, home to the Secretary of State for the Colonies, then I should wish my two representations against Mr. White, to be also forwarded, &c. &c.*"

6. W. G. Nunes, Esq. To Henry Sterne, 20th February.

" *I am to acquaint you that your complaints against Mr. Custos Bell, have been sent home already by the last packet.*"

I humbly conceive therefore, on reference to the foregoing correspondence, that I have on my part, strictly followed the regulations of the Colonial Department; those regulations per-

mitting parties agrieved, if desirous, of forwarding duplicates of the communications which they may have made, to the Governor.

The delay therefore that has taken place, and which I humbly submit, has been seriously prejudicial to my interest, in delaying the public ends of justice, has not been occasioned at my instance, but from some want of regulation at the King's House, which I trust will be at once remedied.

Had it not been for the independence of His Honor the Chief Justice in the last Surry Assize Court, by the successful suit at law against the three Magistrates concerned in one particular instance of oppression, viz. Roger Swire, Robert Baugh, and Frederic White, Esqrs. to the report of which trial I would take leave to refer His Excellency, (say in the Kingston Chronicle, Royal Gazette, and Watchman Newspapers, of Thursday the 16th April,) and wherein I succeeded in obtaining *a verdict of £51. damages, and full costs out of purse.* Had it not been for this (for this alon eput a check to their monstrous proceedings) I submit inevitable ruin must have been the result both to myself and family.

His Excellency's delaying, or refusing the prayer of my petition; of *publickly* investigating my complaints, has caused me, at a very great expense and risk, to institute a suit at law against Mr. White, the late Special Magistrate of this parish, for the wrongs done me by him, and by which means I hope soon to lay them before the Publick.

Gross have been the wrongs which I have suffered; I had hoped that my memorializing His Excellency, as the representative of our Gracious Sovereign, that such wrongs, not only *private* but *publick*, would have been looked into, and redressed; instead of which, a more deadly persecution was the consequence; and it is now a publick boast in this quarter, by the minions of the Hon. John Bell, and Mr. White, that their representations were received, and mine laughed at; and that in consequence of their representations, His Excellency had been pleased to *cast aside*, a recommendation from Colonel Moody, of the Saint George's Regiment, recommending me to a vacant Ensigncy in his regiment.

Report speaks, but it is report only, that the Hon. John Bell has grossly misrepresented my character to His Excellency, and that it was in consequence of such misrepresentation, that His Excellency had written Mr. special justice White, "*to watch me, to secure me in something wrong if possible, and to forbid me entrance into his Court,*" these are the words of special justice White, publickly expressed, and which shall be proved in open Court.

Could I but prove these reports true, I would at once institute law proceedings likewise against the Hon. John Bell, and I am satisfied, when all matters are fairly and publickly discussed, my character will come forth untarnished; and His Excellency will then see, with regret, the *Impropriety* of permitting an *Honourable's Ipsidixit*, to be set in opposition to the *Sacred Oath* of an humble Individual.

I have no more to add, further than, that you will be pleased to lay this letter before His Excellency, after which, that you will forward it, with the originals of every particle of correspondence, relative to this unpleasant affair, *(according to the regulations of the Colonial Department,)* with His Excellency's report thereon, to the Secretary of State for the colonies, and which you *assured* me, in yours of the 20th February, had been *complied* with.

The letter of Lord Aberdeen's, and the regulations, I beg to return enclosed.

I have the honor to remain, Sir,
Your most obedient humble Servant,
HENRY STERNE.

Buff Bay, St. George's,
June 12, 1836.

[3366] The King's House, June 20, 1835.

SIR,

His Excellency the Governor, directs me to state as regards your letter of the 12th instant, that having formerly transmitted the proceedings to the Colonial Office, on the subject of your previous representation, of which you were apprized, and having received a reply thereto, His Excellency has acted on it, at his own discretion, and for which he is responsible; that in returning the papers sent by the Secretary of State for that purpose, His Excellency has nothing further to do with the matter, and he has adhered to the instructions he has received on that head.

With respect to your complaints against Mr. White, that gentleman, as you have been informed, is no longer in the Magistracy, and on the 7th February last, it was put to you, whether you wished, under these circumstances, to have it proceeded with further, and if so, that it would be complied with, as you did not urge this, it was not done, though His Excellency was quite ready, as it was a matter of duty for him, to enquire into.

His Excellency cannot help, what Mr. White or any one else may have said; he is only responsible for his own words,

and declines stating any thing on the matter to you, as to *confirmation or denial*, your papers having been all forwarded, His Excellency has nothing further to say on the subject.

I am Sir, your obedient Servant,

To. H. Sterne, Esquire W. G. NUNES, Secretary

Buff Bay, Saint George's.

To (HIS EXCELLENCY) the Most Noble the Marquis of Sligo.

My Lord,

Beset with every ill but that of fear, your Lordship will not be surprised, to hear I have adopted the last resource left me, to obtain that redress, for the grievous wrongs I have sustained, sustained them too, at the hands of the very one who I had least expected, or was prepared to receive them from; *ruined as I have been from the denial of justice—of my right as a British subject*, because had your Lordship granted me the redress, *I sought by petitions, by remonstrances, at your Lordship's hand*, I should have been saved from the ruinous lawsuit I entered into, to relieve me from the base imputation and jealous eye with which I was viewed by that party of people opposed in every degree to grant redress to those who might be connected, or *even* supposed to be concerned in *any shape* with the Colonial Office. *Fortunate for me, that even the verdict of 20s. Jamaica Currency, I received at the hands of a Jury, is enough to shew that my premises were not unfounded, and proved me to have been an injured man; but, because it was said in evidence that I was backed by a party at home, 20s. is the damages I obtained. This is sufficient to shew you my Lord, that what I claimed at your hands was not unfounded and frivolous. However, I am my Lord determined to go in person, and lay my grievances before those, whom I am confident will honestly hear aud redress them.* Ere long I hope I may see the sails of the ship which is to convey me from this country unfurled—when my haven will be the Colonial department.

I therefore humbly beg that your Lordship will forward by the ensuing packet, *all and every particulars* of my correspondence, and your Lordship's reply in the matter of the Honorable John Bell, Custos of this parish, and Frederic White, Special Justice: *also a copy of the letter uhich your Lordship wrote Mr. White, to direct him to handle me in the manner that he did, in keeping me out of his Court.*

Your Lordship will be pleased also to direct Mr. Attorney General to put you in possession of my affidavit and communication to that gentleman, under date 9th June, 1835, touching an

inquest which was held on the body of a female apprentice in in the house of correction, in this parish, on Tuesday, the 26th of May, 1835, and the improper verdict received by the coroner, which Mr. Attorney General has allowed to pass by unnoticed.

Your Lordship will be pleased to forward this communication, *together* with those already described, to the Colonial Office.

I have the honor to be,

Your Lordship's most humble and obedient Servant,

Buff Bay, St. George's, HENRY STERNE.

28th May, 1836.

[3678] The King's House, 4th June, 1836.

Sir,

His Excellency the Governor desires me to acquaint you that he has received your letter, dated 28th May.

I am Sir,

Your obedient Servant,

To Henry Sterne, Esq. W. G. NUNES, Secretary.

Buff Bay.

The NON-INTERFERENCE of His Excellency the Governor, with my charges prefered against the Honorable John Bell, added to the very uncourteous note of His Secretary, designating me as "*that person*" besides designating my charges as "*unfounded and frivolous;*" I must say exceedingly exasperated me, I immediately drew up a very angry reply by way of remonstrance, which I forwarded to my Solicitor Mr. Harvey to be immediately laid before His Excellency. But Mr. Harvey considering it improper, or written under peculiar feelings of excitement, refused to forward it, so, having had time to reflect, I thought it more advisable to await till after the St. George's Quarter Sessions of January; when as I had determined to enforce the law against the parties whom I had accused, I fully hoped to have the whole affair developed in public by my witnesses, which I thought would be the best proof to convince His Excellency, that my charges were not, as he thought proper to designate them, "*totally unfounded and frivolous.*"

Accordingly I spared neither expense or trouble, so as to have every thing correctly done; I employed my solicitor to draw up the various papers requisite for the Quarter Sessions, and would have had him there on my behalf, but that every thing appeared so clear and straightforward, as to satisfy us, such an expensive step was not required.

Wednesday, the 7th of January, 1835, at length arrived, which was the day fixed according to law, for holding our General Court of Quarter Sessions; the Court was opened, and the Grand Jury empannelled; *the Honourable John Bell, sat as Chief Judge, with his associates, Robert Baugh, Roger Swire, and Frederic White, Esquires;* (the latter being a special justice) the Grand Jury consisted of 17, as follows:—

1 John L. James	7 Henry Burge	13 Samuel Oliver
2 D. Mathuson	8 Archibald Bell	14 A. H. Brown
3 H. Melville	9 H. B. Burgess	15 Daniel Roberts
4 Thomas Murray	10 Moses M. Sollas	16 J. R. Crawford
5 Hugh Crook	11 G. Haughton	17 Robert Hutton
6 Robert Murray	12 Andrew Coultar	

The Honourable John Bell directed the clerk of the peace to withdraw two of the jurors from the Grand Jury, as he noticed they were to be witnesses in a certain matter of Indictment which would be brought before them. The Indictment here alluded to, was the one against Miss Matthews, and which served to show me at once, the stand the Custos was determined to take; I accordingly got up, and stated, that with the permission of the Court, I would refer them both to Gifford and Blackstone, and an extract of which I read, shewing that a juror sitting, was a good and eligible witness; the Court over ruled such, and directed the clerk, before the indictments alluded to were sent in, to withdraw the two jurors, and on he second day of the Court, Thursday, before the indictments were sent in, the two jurors were withdrawn from the Grand Jury.

The Hon. John Bell then addressed the Grand Jury, stating that there was an unusual deal of business to come before them but that one case particularly, he would wish to press well on their attention, which was a case of forcible entry and detainer, and here he thought proper to say, that before they could find a true bill, it must be clearly proved before them, that absolute force of arms was used to gain possession, and that the defendant retained forcible possession to the moment of finding the bill.

At the adjourned Court on Thursday, the indictment was sent in. The Custos resigned his seat to his three associates, but still remaining in the Court House, directing them; and every now and then was to be seen either Justice Swire or Justice White, and at one or two periods both together quitting the bench, and going to consult him at the end of the Court House; at one period of the proceeding the whole three Justices quitted the bench, leaving the Jurors and spectators wondering at such proceedings.

The first of my indictments, The King v. Harris, for trespass and larceny, came forth a true bill on one count, and Harris was immediately put on his trial before the Petty Jury.

I was the first witness put on examination, and I respectfully requested of the Court to take down the evidence, which, being refused, I objected to proceed, unless either the court, or clerk of the court would take down such evidence, stating to them publickly as my reason, That the chief magistrate of that parish at that moment stood impeached by me, grounded upon and connected with the matter in question. The Court felt themselves bound to acquiesce, and directed the clerk to take down the evidence. As I proceeded in my narration, I was continually interrupted by the court, and expressly forbid to speak of any portion of matter, but of the deed for which the accused stood charged; likewise, when I had occasion to mention the name of Miss Matthews, who stood charged by me as the instigator and abettor of the deed, and which was the primary cause of impeachment against the Custos, the court forbid my proceeding, but finding me determined, as I stated I must proceed and go through my evidence, they cut me short, and refused to listen further.

A second witness was called up, an apprentice and special constable, named David Clarke, whom they treated very harshly; Mr. White particularly did this, bawling at him to terrify and alarm him; but the man was firm, and corroborated the testimony I gave, but he was likewise forbid to say aught about Miss Matthews.

A third witness was offered, and in attendance, but the court, directing the jury to find a true bill, as the evidence was so very clear, dispensed with the third.

Before the court proceeded to pass sentence, I got up and addressed the court, stating to them that my object was not to seek the punishment of the prisoner, whom I considered to be in a manner ignorant of the offence he had committed, but that my aim was to expose and bring to punishment, *if possible*, the party morally guilty. I therefore recommended him to the consideration of the court, stating that I had known him for the past 6 or 8 years, and had never before found cause of offence against him, and as such I trusted the court would reprimand him for the present, cautioning him as to the future; but intead of which, will it be believed, that the court, without either reprimand or caution, fined the clearly convicted prisoner 7½d. and discharged him.

A SECOND INDICTMENT, The King versus Sarah Matthews, for feloniously trespassing and larceny, was now sent forth from the Grand Jury—a true bill. But mark the wisdom, the ingenuity and justice of the court; they examined the indictment, whilst the accused was placed at the bar, and finding in the caption of the indictment, that the clerk had filled it in,

as before the Hon. John Bell, and his associates Baugh, Swire, and White, they quashed the proceedings, stating the bill to be false, inasmuch as the Hon. John Bell was not sitting on the bench that day. I immediately got up, and referred them to a passage in William's Justice, clearly laid down, that such was not fatal to a bill; and that, as the Grand Jury were still sitting the clerk had only to send the bill back, and direct the foreman to strike out the name of the Hon. John Bell, and as the names of the three sitting magistrates were already inserted, the indictment would then be right. At this the court was incensed, and Mr. Swire sarcastically remarked, we have decided already, you may report *us* to the King's House if you think proper; and upon my attempting to argue the point, and insisting upon my right as the prosecutor, the bench ordered me to shut my mouth, declaring they would not allow me to say one word on the subject, and that I might impeach them if I thought proper. On my attempting to remonstrate, they ordered and made the constable lay hold of me, to put me out of the court, declaring they would commit me to jail; finding it useless, I said no more, but having got the constable to unhand me, I took my post at the bar amongst the spectators.

In the THIRD INDICTMENT, for forcible entry and detainer, my solicitor had instructed me that I could not be a witness, as I was entitled to a writ of restitution, on the witness being convicted. I went in to the Grand Jury, for the purpose of giving their foreman a list of my witnesses, with a sketch of questions which each would be able to answer and prove, but the court sent the constable and enforced me away, neither would they permit my leaving a paper of guidance with them; consequently, as the witnesses went in, the jury knew not what questions to put, although most of them knew my right of possession, but not of the force or entry, or forcible holding, which the Hon. John Bell, in his charge to them, laid down must be clearly proved, consequently they ignored the bill, aud the court broke up without my obtaining any redress.

Immediately on the breaking up of the court, the constable approached me, and shewing me a kind of warrant or summons, signed by the said three Justices, Baugh, Swire and White, notified me by it, that I was summoned to appear before them, at the New Conrt House, on Saturday morning, the 10th instant, by 10 o'clock, to answer a charge preferred by one M. G. F. LEMASNEY, against me, under the Wharf Law, "*for refusing to give him the weights of certain Hogsheads of Sugar, sent to my Wharf, from Kildare Estate, to be shipped.*"

On receiving this notification, I felt convinced that it was a plot to injure and oppress me, for the charge was completely

false; and well knowing the penalties attached to Jamaica Wharfingers, by the Island law, I at once determined to seek legal advice beforehand; and although at a late hour, and not having partaken of any nourishment during the day, in consequence of being so fully employed in the court, I took horse, and rode direct to Kingston during the night, (40 miles) and at daylight the next morning, say Friday the 9th, I procured a horse and chaise, and posted off to Spanish Town, my solicitor Mr. Harvey was not there, but I immediately waited on Mr. Watkis, and procured his high legal advice how to act, and what to do in the matter, Mr. Watkis at once determining, that the attempt made to injure me was most odious, and moreover was perfectly illegal, stating first, " that I ought to have been served with a copy of the summons and charge," and secondly, " that if the charge was really as I named it to him above, *that they the Magistrates, had no cognizance of it under the Wharfage law*, and could not attempt to bring me to an account for it."

Mr. Counsellor Watkis having answered fully every point that I required, cautioned me to be perfectly respectful, but to be resolute and stand upon my rights; first of all to procure a copy of the charge, and to confine the Court entirely to it, which in itself, ought to shew them that they had no power by the law to take cognizance of it, and that if they persisted in aught, to be sure to have a friend as well as myself, to take down the proceedings of the Court in such a manner as each of us could swear to, so as to have laid before the Chief Judge, to move for a writ of certiorari. Being fully armed as I thought aright, I returned to Kingston, and waited upon my agent, Mr. John Nethersole, who was also the agent of Mr. White the Special Justice, one of the three appointed to sit on my trial. It was in Mr. Nethersole's store, and by him Mr. John Nethersole that I was first introduced to Mr. White, only a few months previous, before he had entered upon his judicial duties in Saint George's. I pointed out the whole matter to him, Mr. John Nethersole; 1st, The enmity of the Custos—2ndly, The proceedings at the Quarter Sessions—and 3rdly, the present seeming plot as to the wharf, with Mr. Counsellor Watkis's opinion, and then my own, stating, that I feared it would prove serious, and requested of him as a friend of Mr. White's, to drop him a letter by me, which I would hand him immediately I got to Saint George, to advise him not to sit on the occasion, as he was a Special Justice, and ought not to interfere in local matters. Mr. John Nethersole pleaded a press of business, and otherwise turned the matter off, as not being so serious as I represented or imagined. Accordingly we parted, and about 6 o clock that evening, I again took horse and rode during the night to Buff Bay (40 miles). I arrived there about 2 o clock in the morning, turned in and took

a sleep till day-light; and about 7 o'clock I went and saw my neighbour, Mr. Sollas, to whom I communicated the result of my journey, and shewed him Counsellor Watkis's opinion. Mr. White being a favourite of Mr. Sollas's, Mr. Sollas determined to use his influence with Mr. White to prevent him from sitting, but all Mr. Sollas's persuasions had no effect upon Mr. White, as he was fully bent on sitting and joining in the plot against me.

A Mr. Silvera who happened to be at Mr. Sollas's house at the time. learning how matters stood, hastened to Mr. Baugh, as a friend, pointed out to him all that he had heard, and advised him as a friend, and as a man of family, to have nothing to do in the matter; Mr. Baugh was also too resolutely bent on sitting and joining in the plot against me, than to take his advice and desist, *for he observed, poh, poh. Sterne is a fool, we will show him by the law itself, that he can have no appeal from our decisions, and no Court can take cognizance of it, when once we have decided*, thereby proving direct, that the said three Magistrates must have been plotting and agreeing together on the matter beforehand.

At length the hour of 10 o'clock on the morning of Saturday, the 10th of January, 1835, arrived. It happened to be the day appointed by law, for the election of ten vestrymen and two Chuchwardens, to serve for the parish, the current year; consequently most of the freeholders of the parish attended at the Court House this day; On my entering the new Court House, I noticed a great number of persons to be already assembled, and the Electionering was going on, *The Honourable John Bell, as Chief Magistrate was seated at the head of the table*, and before him was laid the laws of Jamaica in several large volumes, one was open, which he was reading and arguing upon with Mr. Swire, Mr. White and others about him; as soon as it was noticed by them that I had entered the court house, there seemed to be a check or stillness to their conversation; I went up to the head of the table where they were, and distinctly noticed the volume open, and place upon which they had been discussing to be the wharf laws; Mr. Swire now called out to the deputy clerk of the peace that himself and brother Magistrates were ready, and then went to the table, and took his seat as one of the Judges on my case, Mr. Baugh and Mr. White now likewise came, then the deputy clerk of the peace, Robert Dunbar, then *The* INFORMER, *M. F. G. Lemasney*, he stood at the back of the Magistrates, I had brought my writing desk, and procured a young gentleman to assist me in taking down the proceedings, agreeable to the advice of Mr. Counsellor Watkis, the deputy clerk of the peace now brought the volume of wharf laws from the top of the table, and handed it over to Mr. Swire at

the foot of the table, and the trial of my case, styled *Lemasney, v. Sterne, now opened, RogerSwire, Robert Baugh, and Frederic White, as justices, Robert Dunbar, as deputy clerk of the peace, myself young friend with Lemasney, all occupying the foot of the table, directly in front of, (and only a few feet apart) The Hon. John Bell as Custos, Mr. George Hall as clerk of the vestry and recorder of electors votes, with others.* The case had been only just opened, when the noise and confusion was so great. *That the Custos suggested to the Magistrates the propriety of their adjourning to the Ball room above*, which was agreed to, aud the deputy clerk of the peace, removed the laws &c. above accordingly, where the case was afresh opened.

I at once appealed to the court on its impropriety in attempting the trial, before first furnishing me with a copy of the charges prefered by my accuser against me. Mr. Swire, who at first shewed a very hostile and heated feeling, and moreover, moved, as the organ or chief, replied, that it was impertinent in me to speak of improprieties, it did not need that I should be served with a copy of charges, I was brought up before them under the general wharfage act. I contended to the contrary, and stated, that since I had been noticed to appear by the, constable I had rode upwards of 100 miles to consult with counsel on the matter, and that I then held in my hand counsel's opinion, which declared, in its very front, that such an omission would of itself set aside any trial *Mr. Swire vociferated* (as he did at several other periods during the trial) *we want nothing of counsel, we are our own counsel in this case.* I contended, that I would not submit to any trial, unless I was first served with a copy of the charges preferred against me. At this the deputy clerk of the peace observed, oh that can be easily accomplished, for here is a copy, handing me over the following.

Jamaica Ss. Saint George.

WHEREAS, information and complaint, on the oath of M. F. G. Lemasney, overseer of Kildare Estate, in the said Parish, have been made before one Robert Baugh Esquire, one of His Majesty's Justices of the Peace for the said Parish,*(That Henry Sterne wharfinger at Buff Bay, in the Parish aforesaid, hath refused to give to the said M. F. G. Lemasney, the weights of certain hogsheads of sugar, sent to the said wharf, by him to be shipped.*

These are therefore to require you forthwith, to summons the said Henry Sterne, to be and appear before me, and Roger Swire and Frederic White, two of the Justices for the parish aforesaid, associated by me, to hear and determine the above complaint, at the Court House, Buff Bay, on Saturday, the tenth day of January next, between the hours of ten and twelve of the clock,

in the forenoon of the same day, to answer to the said information and complaint, and to be further dealt with according to law; and be you then there to certify what you shall have done in the premises. Herein fail not.

Given under my hand and seal this 8th day of January, 1835.

ROBERT BAUGH, L. S.

To any lawful Constable of the Parish of St. George.

True Copy ROBERT DUNBAR D. C. P.

Which having read, I observed to the Court; *Why your Honors, this is no charge or offence at all, cognizable by you under the wharf laws; there is no part of the act which gives you any power to proceed against me under such a charge;* Mr. Swire here seemed greatly exasperated, and declared, that the Court would not be thus dictated to by me; and that on reference to the 3rd *section of the law* (meaning the general wharfage law), which he read aloud, *he, Swire, was satisfied on the point of Jurisdiction, and that the court had full authority to proceed;* that their own opinion (meaning the court's), was better than counsel's, and *Mr. Swire here read the last clause of the act, and remarked with a tone of triumph, you must not presume to dictate to the court there is no appeal for you, we have it in our own hands.* So, my demurrer for want of jurisdiction, was, in consequence overruled, and the court proceeded in the trial.

I at first determined to keep close to counsel's instructions, knowing that the last clause of the act prevented me from obtaining any redress for the gross wrong which was about to be inflicted, otherwise, and both myself and the young gentleman, whom I had engaged, commenced to take down in writing, verbatim, what transpired; *The Court were one and all excessively violent,* PARTICULARLY MR. SWIRE, *who called upon his brother Magistrates to fine. and not to be bothered with me,* what says he, sit here all day, and let him talk to us about counsel's opinion; I observed, why your Honors you are bound to hear me out in my defence, if it takes you a week, " *what, a week! says Swire, jumping up and leaving the table I have made up my mind already, so I will sit here no longer; come let us fine him and have done with it, and on this he quitted his seat and went away to the other part of the Court house, and cocked his foot up in a window, and entered into conversation with some of his friends;* presently he returned, and it was agreed upon by the Court, that if I would desist from taking down notes, the deputy clerk of the peace should furnish me with a full copy of the proceedings afterwards; accordingly under this promise I stopped taking notes, and we proceeded on faster with the trial, if trial it could be called; Lemasney was heard, *but every argument of mine was unavailing,* it was

useless for me to proceed, *they got noisy and clamorous, rising up, first one and then another, declared the facts were fully proved;* I offered my witnesses to disprove what had been said, pointing them out as they there stood in attendance, my clerk Mr. J. E. Anderson particularly, but it was all to no purpose; *and here followed a scene truly disgraceful, the Court one and all had arisen, and quitting their judicial seats, each vociferating fine him, fine him;* the deputy clerk of the peace had loudly to call after them to return so as to instruct him as to the nature of their verdict, and amount of the fine, *on this they returned* and Mr. White only, seated himself, *Mr. Baugh observed, there is the law, fine him to the full extent of it;* Swire observed, the law permitted them to fine from five to fifty pounds, *so let it be £25.* to this they agreed, and were about separating, when *the craving deputy clerk of the peace* called out, *your honors I hope will remember my costs,* oh! yes, yes, *says Mr. White,* certainly *let it be with costs,* to this *they all agreed,* and ordered the verdict to be thus recorded accordingly; this was all transacted while the Magistrates were on their legs, and intermingled with the spectators; at this moment Lemasney stepped up to Swire, requested they would give orders for a *distress warrant,* as I had been heard to say I would never pay the fine, *another scene ensued,* the Magistrates returning to the table, and directing the deputy clerk of the peace to make out a *distress warrant for them to sign immediately,* which was accordingly done, and delivered to *Mr. Lemasney. the Informer,* and by him delivered to Mr. Burgess the constable, with direction *to lose no time but levy immediately.* The following is a true copy of this beautiful document, given in the handwriting of the deputy clerk of the peace, and which was the only document that enabled me to send out my actions against the Magistracy.

Jamaica Ss. Saint George.

Be it remembered, that on the tenth day of January instant, came M. F. G. Lemasney, overseer of Kildare Estate in the parish aforesaid, and complained unto us Robert Baugh, Roger Swire, and Frederic White, three of His Majesty's Justices of the peace for the said parish; *That Mr. Henry Sterne, Wharfinger, of Buff Bay, in the parish aforesaid, refused to give to the said M. G. F. Lemasney, the weights of certain Hogsheads of Sugar, sent to the said Wharf, at Buff Bay, by the said M. F. G Lemasney, to be shipped,* the said Henry Sterne having had *due notice* to attend this present day, to answer the said complaint.

We, the said Justices, having duly examined the matter aforesaid, *do find the above to be fully substantiated and proved.* We therefore by virtue of the power to us given in

and by an act of the Governor, Counsel and Assembly of the said Island entitled (" *An Act for the general regulation of wharfage and storage*") do order, adjudge and determine, that the said Henry Sterne do immediately pay the sum of TWENTY FIVE POUNDS, current money of Jamaica. AND FIVE POUNDS THE COSTS OF THIS PROSECUTION, and in default thereof, that Edward C. Burgess, constable for the said parish, do levy by distress and sale of the goods and chattels of the said Henry Sterne, the sum of THIRTY POUNDS, current money of the said Island of Jamaica, WITH THE COSTS ATTENDING THE SAME. Hereof fail not, as you shall answer the contrary at your peril.

Given under our hands and seals, this 10th Day of January, 1835.

ROBERT BAUGH, L.S.
ROGER SWIRE, L.S.
FREDERIC WHITE, L.S.

A few minutes after the closing of this mock trial, I went below, to where the election was going on, aud there I noticed the Honorable John Bell, still sitting at the head of the table with the Wharf Laws open in his hands ; on his right hand was Mr. Swire and Mr. Baugh, with Mr. George Hall, the clerk of the vestry ; on his left was seated Mr. White and Mr. Sollas, and behind him stood Mr. Silvera and others ; they were all in high conversation : the following I heard spoken before they noticed my entrance. *Bell was laughing and pointing to the law; White was exultingly exclaiming " we have fined the fellow, we have fined him.*"—Hall was exclaiming " the law compels him to have wharf books and to produce them"—*Sollas was exclaiming "monstrous, most monstrous ; stop boys, you will pay for it, Sterne will bring you to an account for it;* if he does not—aye, I wish it was my case, I would give an hundred pounds this moment". *Silvera was exclaiming " heavens it was more like a Spanish Inquisition, than a British Court of Justice ; Good God ! if my own eyes had not beheld it I never could have believed it* ", *on this Swire observed, "aye you are one of his cronies." What! says the indignant Silvera, striking his breast, " by heavens, I swear I was never under his roof in my life, I am no crony of his Sir, I hardly know him. but your conduct is most monstrous, and I only hope to God he will punish you."* I was now noticed by *Bell, who says quietly " hush ! hush ! there he is."* I now walked up to the table as if nothing had happened, and in a few minutes after left for my wharf, were I remained quite busy loading some vessels. About two hours

after the deputy clerk of the peace rode up to me, on his way home, and stated, he had some further proceedings against me at the instance of Mr. Wm, Hossack, proprietor of Buff Bay River Estate, (*who is an intimate friend of Lemasney's and a brother-in-law of the Custos's, The Honourable John Bell*), whose charge against me was for not having got tarpaulings on the wharf according to law, which was a £50 penalty, against which I could have no defence.

This additional news coupled with the harsh and illegal fine in the morning, determined me to shut up the wharf, from being a public one; as the only means of saving my self from impending ruin, considering that if it ceased from being public, fines and penalties must naturally cease also. *On closing the wharf, I should lose my wharf fees, and still have to pay rent, Taxes, Clerk's salary, &c. but this was the least evil.* Indeed it was my only chance left, as I found Mr. Bell and his party were so savagely bent to work my ruin, for I had only rented it from this very Lemasney as agent or Overseer of Kildare Estate, in the month of August prior, without weights or scales, or tarpaulings, as a proof of which the following documents No. 1 to 11 will shew.

No. 1 Is an extract of a letter from Henry Sterne, to Anthony Davis Esquire, one of the receivers for Kildare Estate dated Buff Bay, 5th August 1834.

To Anthony Davis, Esquire.

Dear Sir,

My present object of now addressing you is to request, you will either furnish me, or permit me to furnish, deducting the amount out of the accruing rent, *Weights and scales, so that I may be enabled to meet the object of the law, and not lay open to its penalties,* also the necessary blocks and ropes for shipping, as there are none at present on the wharf.

I am dear Sir, respectfully,

Your most obedient Servant,

HENRY STERNE.

No. 2 Is an extract of a letter from Henry Sterne to the Hon. William Miller, one of the receivers for Kildare Estate, dated Buff Bay, August 6, 1834.

To the Honourable William Miller.

Dear Sir,

Having become your tenant for Kildare wharf on this Bay, since yesterday, only *on condition that the estate should furnish a set of weights and scales, to bear me harmless*

from the penalties imposed by the law for not having them, and likewise a couple of blocks with ropes, for shipping the produce from the wharf; *this, Mr. Lemasney says will not be granted, as not requisite*; I therefore take the liberty of addressing you on the subject, and await your reply, which I trust will be, to direct scales and weights, with blocks and ropes to be furnished, and then all things will go on well.

I am dear Sir, respectfully,

Your most obedient Servant,

HENRY STERNE.

No. 3 Is my security's letter to both the Hon. Wm. Miller and Anthony Davis, Esquires, as joint receivers in Chancery for Kildare Estate.

Gentlemen,

I hereby agree to become responsible to you for the rent of the wharf and premises on Buff Bay, belonging to Kildare Estate, from this date, at the rate of one hundred and fifty pounds per annum, as long as Mr. Henry Sterne may think proper to keep possession.

I am, Gentlemen,

Buff Bay, Your most obedient Servant,

August 14, 1834. EDWARD C. BURGESS.

No. 4 Is the Honourable William Miller's answer to my letter, of 6th August, (see No. 2,) from Trelawney, August 14, 1834.

To Henry Sterne, Esq.

Dear Sir,

I am in receipt of your letter of the 6th instant, respecting Kildare Wharf; Mr. Anthony Davis, my co-receiver, has the active management of that property, and I never interfere in any way with his arrangements, I merely keep the accounts, and must therefore refer you to him for information on the subject.

I am dear Sir,

Your most obedient Servant,

WILLIAM MILLER.

No. 5 Is a notification (addressed to William Hossack, Esq. the proprietor of Buff Bay River Estate, and a shipper at Kildare Wharf,) of my intention of closing the wharf from being any longer public.

Sir,

Inclosed I take leave to hand you my small wharf account, amounting to £7. 16s. 3d. which you can settle at your convenience.

I have to request you will send for the few things remaining at the wharf as per account, having come to the determination of closing my wharf from being public, from Monday next, for the remainder of my term to run, finding from the illegality of proceedings this day, that it would be *ruinous in my keeping it open.*

I am Sir,

Saturday Evening, Your obedient Servant,
January 13, 1835. HENRY STERNE.

No. 6 Is a notification to the same effect, addressed to the Hon. John Bell, proprietor of Woodstock.

Sir,

I take leave to notify to you that I have come to a determination of closing the wharf from being a public one, *owing to the illegality of proceedings against me this day.*

Therefore, from and after Monday next, it will cease to be public, for the remainder of my term to run. *The Corsair's boat now at the wharf, is waiting for further sugars from Woodstock which you may send, and by your sending your own people, my* blocks and tackle shall be given to do the needful, *without charge.*

I am, Sir,

Saturday Evening, Your obedient servant,
10th January, 1835. HENRY STERNE.

No. 7 Is a notification to the same effect, addressed to Doctor Wm. Robertson, proprietor of Craig Mill.

Dear Sir,

I take leave to notify to you, that I have come to a determination of closing the wharf, from being a public one, owing to the illegality of proceedings against me this day.

Therefore, from and after Monday next it will cease to be public for the remainder of my term to run. *By your sending down hands, I will give you the use of my blocks and fall free of charge,* to ship your four hogsheads of sugar, now at the wharf, on board the Corsair's boat. I am, dear Sir,

Saturday Evening, Your's truly,
10th January, 1835. HENRY STERNE.

No. 8 Is a NOTICE to the PUBLIC, which was posted up at the wharf, the Court House, and other public places in the neighbourhood the same evening.

From and after Monday next, the wharf on this Bay commonly known by the nameof Kildare wharf will cease to be a *public one*, parties having goods there, are requested to take them away as early as possible.

HENRY STERNE,

Buff Bay, *Tenant in possession.*

Saturday, 10th January 1835.

No. 9 Is a copy of the PUBLIC NOTICE given through the Herald Newspaper, dated Buff Bay, 10th January, 1835.

NOTICE TO THE PUBLIC

From and after Monday next, the wharf on this Bay, commonly known by the name of Kildare wharf, will cease to be a public one, Parties having goods there, are requested to take them away as early as possible.

HENRY STERNE,

Tenant in possession,

On the above wharf are several Lock up Stores, which will be rented out to parties interested, with the free use of the wharf for landing and shipping, from date, to the 1st of August, on application to,

HENRY STERNE.

No. 10 Is an extract of a letter from Henry Sterne to The Honourable Wm. Miller, dated from Buff Bay, Tuesday 20th January, 1835.

To The Honourble Wm. Miller.

Dear Sir,

I wrote to you under date 6th August 1834, in reference to my becoming your tenant for the wharf on this bay belonging to Kildare Estate; to which you were kind enough to reply referring me to Mr. Anthony Davis, for a final arrangement. I would take the liberty now of calling your attention again to my letter of that date. In calling your attention to the law there referred to, say 44th, George 3rd, c. 15 and 45th George 3rd, c. 26, also to the conditions there laid down by me, *viz.*

that the Estate should furnish a set of Weights and Scales to bear me out against the penalties of the Law &c. I purchased from my predecessor Mr. Burge, blocks, ropes &c. for shipping, which was indispensibly necessary to have had, the first day of my taking charge of the wharf, and *I wrote at your suggestion to Mr. Davis about the weights and scales, but this gentleman never thought proper to reply*, and I engaged *Mr. James, the Founder in Kingston, to cast me a new set of weights agreeable to Law*, which weights are engaged to be forwarded round to me, by that gentleman, when he sends round the tread mill for this parish &c.

Mr. Lemasney the Overseer of Kildare, has thought proper from motives of revenge to issue proceedings from the clerk of the peace office against me, for not having given him the weights of sugars shipped, *he well knowing that I had no weights to weigh*, and the consequence is I have been most *illegally fined in £25. fine, and £5. costs of the prosecution*, and a warrant of distress at the instance of Mr. Lemasney has been issued against me; the result is, that part of my household furniture has been levied on, and is to be sold publickly this day. I have therefore notified to the public my closing the wharf from being a public one (*for had I continued to keep it open as such, without weights and scales it would have been ruinous*) and on reference to the Herald of Saturday last, you will perceive the notification. It is not my wish that any one of the shippers here should be inconvenienced or suffer in consequence; *but I have done it only to protect myself*, and all such as come into my terms will have the benefit of the wharf. I have enclosed a copy of my terms for your consideration, my proposal being there plain and simple, each party I propose shall give me a sum equal to their usual wharfage by way of salary and storage, and then I give the wharf &c. gratis.

I am, Dear Sir,

Your most obedient Servant,

Buff Bay, HENRY STERNE.

Tuesday 20th January, 1835.

No. 11 Is The Honourable Wm. Miller's answer to my letter of 20th January, from Trelawney 27th January, 1835.

To Henry Sterne Esquire.

Dear Sir,

I have received your letter of the 20th instant, respecting Kildare Wharf, but as I merely keep the accounts of that property, and do not *interfere with Mr. Davis's depart-*

ment of active manager, I have forwarded your letter to him, with a request that he would do what is right and proper to be done in the business,

I am Dear Sir,

Your most Obedient Servant,

WILLIAM MILLER.

It must here be noticed that Mr. Anthony Davis never by letter, acknowledged the receipt of my communications, or troubled himself, at the request of the Hon William Miller, to do what was right in the matter. Mr. Davis is an assistant Judge of the Assize Court, and it will be seen that he sat as such with the Chief Justice, on one or two of the trials that followed, against the magistrates. *Mr. Davis was the personal and most intimate friend of Mr. White, one of these Magistrates oppressing me.*

Mr. Davis was subpœnaed by me, on one or two trials, in order to have proved the aforenamed correspondence; but he was never called upon, in consequence of *Sir Joshua Rowe's refusing to allow my witnesses to enter upon the full merits of the case.* Mr. Davis is one of the members for my parish, and at his last election, owed his return to the house, principally to my interest, as I considered him a very proper character to be there, notwithstanding his past conduct towards me.

Six copies of the Notice, No. 8, were posted up in the most public part of the parish, and, from Monday the 12th of January, the wharf ceased to be a publick one, and I refrained from taking a single penny of wharfage; yet I kept a clerk there, to deliver goods which had been previously there; *and in no one instance did I object to any one individual, who asked permission, to either ship or land goods. Mr. Bell and Dr. Robertson, both shipped Sugars with their own people, having the use of my blocks, tackle, &c. without any charge. Mr. James, Mr. Sollas, Mr. Burgess, &c. landed Goods by their own people, in a similar way, without charge,* and I lost, I fancy, from the 12th (the date of closing) to the 30th, (the date of transferring it over to another), in fees, rent, salaries, &c. at least £80.

Mr. White knew perfectly well of the wharf being closed, as he rode through it daily, and on Monday the 19th, I sent my clerk to dun him for my account, only 16*s.* 10½*d.*—3*s.* 4*d.* of which was for cash paid by me to accommodate him, in hiring two men to carry a half barrel of pork up to his residence. *This 3s. 4d. he struck out of the account and refused to pay,*

sending me word that he had himself given the men a bottle of rum, and at the same time directing my clerk to tell me, that I was subjecting myself to a further fine by shutting up the wharf.

During the time the wharf remained as a private one, say on Saturday the 24th, *as if it were a Divine Judgment on Mr. White*, for his unjustifiable conduct towards me. A vessel called off the wharf to land some goods, but which of course I was compelled to refuse receiving, for if I had received, I should have been making myself again a publick wharfinger, and thereby again lay myself open to penalties.

Several gentlemen, who were inhabitants of the Bay, say *Mr. James, Mr. Sollas, and Mr. Burgess, who all had Goods on board, came to the wharf and besought me to allow their Goods to be landed, and I accordingly gave the free use of the wharf and tackling without any charge*, and they, with their own people landed their own Goods. The boat now brought some goods to be landed for Mr. White, but no friend appearing there for him, I would not suffer them to be landed, and advised the Captain to take them back on board, and land them at Hope Bay public wharf, which was about ten miles to windward, and where the vessel was bound for. The goods were taken back on board accordingly, and the vessel left the wharf. *The next day I heard to my great surprise*, that the vessel in attempting to enter Hope Bay, the previous night, had struck upon a reef and become a total wreck, thus Mr. White's goods, amounting in value to £32. was totally lost.

The following is a true copy of the mock trial, upon me, of the 10th, as furnished me, by the deputy clerk of the peace under his own hand, as promised by the Magistrates, but for which, he made me pay him the sum of £2. 15s.

[Summary] Buff Bay Court House,
10th January, 1835.

M. F. G. Lemasney versus Henry Sterne,

For refusing to give the weights of certain hogsheads of sugar sent to Buff Bay wharf, to be shipped.

The affidavit of M. F. G. Lemasney, was read, as follows.

Jamaica Ss.
Saint George.

Personally appeared before me, Robert Baugh Esquire,

one of His Majesty's Justices of the Peace, for the Parish of Saint George, M. F. G. Lemasney, overseer of Kildare Estate, in the said Parish, and being duly sworn, made oath, and said, *That Henry Sterne, wharfinger at Buff Bay, in the Parish aforesaid, hath, and still doth refuse, to give to deponent, the weights of certain hogsheads of sugar, sent to the said wharf, by deponent, to be shipped; and which weights, this deponent saith, he applied for, to the said Henry Sterne as wharfinger.*

M. F. G. Lemasney.

Sworn before me this 8th day of January 1835

Robert Baugh L.S.

M. F. G. Lemasney sworn.

I wrote to Mr. Sterne requiring the weights of the sugars last shipped from Kildare.

He sent me a verbal message, to say, that he would write in the morning following, since then I have not heard from him. I have not up to this moment received the weights.

DEFENCE.

I have had no legal application from Mr. Lemasney; Mr. Lemasney's note, applying for the weights of the sugars did not reach me until after sun set.

Question by Justice White—Have you weighed the sugars?

Answer.—I am not bound to answer that question.

Mr. Lemasney's note alluded to, was handed to the court by Mr. Sterne, of which the following is a true copy.

Mr. Sterne.

Sir,

You will oblige, by sending me per bearer the weights of the sugars last shipped from this estate.

I am Sir

Your obedient Servant,

Kildare, 6th January, 1835. *M. F. G. LEMASNEY*

Question by Mr: Sterne to Mr. Lemasney.

Is this the only application you have made?

Answer. Yes.

Objection by Mr. Sterne. It is not compulsory on me to send the weights.

Per Curiam to Mr. Sterne.

If it is not compulsory on you to send the weights to the individual sending produce to your wharf, to whom then must he apply for such weights?

A. When the produce is sent to the wharf, and the receipt for such demanded, I am bound to give such receipt; if required to weigh, it is optional in me to give the weights.

Per Curiam.—Do you consider that you can select any particular part of a wharfinger's duty, to perform or not at your pleasure?

A. Certainly not, I am bound to adhere to the law most strictly.

Question to Mr. Lemasney by Mr. Sterne.

Was it not your own request that those sugars last shipped to which your note refers, or Kildare sugars generally, should be put into the shed close to the wharf?

A. I went to the wharf some days back and met Mr. Sterne. I mentioned to him that I expected a boat up that evening, or early in the morning following, *I therefore requested Mr. Sterne should put a boat load in the shed, that they may be closer to the wharf.* At this time there were a good many hogsheads in the stores; that was the only request of the kind made by me to Mr. Sterne, to the best of my recollection.

By Mr. Sterne.

Did you state any particular reasons why you wished them put there?

A. Yes, I have already stated in my previous answer, that it was *in consequence of my expecting a boat up that evening or early next morning.*

Q. Was *that* the *only reason* you ever stated?

A. That, and its being more *contiguous to the wharf.*

Q Did you give the order for the shipping before the boat arrived at the wharf?

A. I cannot say whether the order reached Mr. Sterne before the boat was at the wharf.

Per Curiam.—to Mr. Sterne.

Are all produce sent to the wharf, entered into a book, with the weights, &c.

A. *All hogsheads, puncheons and packages as directed by law to be weighed and entered; their weights are in the wharf book.*

Per Curiam.—Have you any objection for the satisfaction of the Court, to produce the said wharf book?

A. Every objection.

Charles Calvert, Master of the William Mitchell, shallop, sworn.

Question by Mr. Sterne.

Have you been any length of time drogging sugars and produce for ships in this Island?

A. I have been about six years.

Q. In receiving sugars from the different wharfs, have you ever noticed that the Wharfinger was in the habit of *weighing them?*

A. *No, never noticed such a thing in the West Indies,* might have been weighed before I got them.

Q. Your boat has been waiting at different wharfs at different times for sugars, how did you receive them? were they weighed, or stored, or received into the boat at once?

A. When we were waiting, we took them into the boat at once, never noticed them to be weighed.

The Court here closed the proceedings, and fined the defendant in the sum af twenty-five pounds, with five pounds of costs.

(True Copy) ROBERT DUNBAR. D. C. P.

On Monday the 12th of January, I was visited at my residence by the constable Mr. Edward C. Burgess, who produced the warrant of distress, and demanded from me the amount of twenty-five pounds for the fine, and five pounds for the costs; I told him I was not prepared to pay, and urged the constable to let it lay over, *but he pleading his directions from Lemasney to make an immediate levy, and lose no time,* proceeded to execute the warrant by a levy, and accordingly *levied on furniture valued for forty-eight pounds,* which he at once advertised for public sale on Tuesday the 20th.

The following is a copy of the memorandum taken by me at the time this levy was made, signed by Edward C. Burgess as constable, and John E. Anderson, my clerk.

MEMORANDUM. Buff Bay, Monday, January 12th, 1835.

Mr. Edward Cooper Burgess, parish constable for Saint George, entered the dwelling house of Mr. Henry Sterne, *with a warrant of distress, and orders to levy on goods and chattels of the said Henry Sterne, to pay a fine amounting to* 25 *pounds,* and further *the costs of prosecution amounting to five pounds,* and further, *the costs of this levy,* for which he has marked a handsome *Grecian Couch, with pillows and covers complete* which is valued for thirty-two pounds, *also a handsome mahogany dining table,* valued at sixteen pounds, and which are to be sold at public sale on Tuesday next

EDWARD C. BURGESS, *Constable,*
JOHN E. ANDERSON, *Clerk.*

Before proceeding further it should be noticed, that on Friday the 9th, while I was absent in Spanish Town, consulting with Counsellor Watkis about my trial respecting the wharf, which was to take place on Saturday the 10th. Miss Matthews

the person who had unlawfully taken forcible possession of a part of my premises, and whom I had indicted in the Quarter Sessions of Thursday the 8th, no sooner found me absent, but proceeded, to further acts of trespass. She now took possession of my horse stable, and made one of her apprentices take her horse and place into it. Mrs. Sterne noticing this from her house, called upon her special constable David Clarke, and gave him orders to go and turn the horse out of the stable. David Clarke who had several times before, received abuse and threats from Miss Matthews, at first refused to obey the order, but being urged by Mrs. Sterne, he obeyed, and immediately got a volley of abuse from Sarah Matthews, an apprentice belonging to Miss Matthews, and also a kept mistress of William Harris; it must here be observed that both Sarah Matthews and William Harris were the parties against whom true bills for trespass and larceny had been found, only on the Thursday prior, through the instrumentality of this David Clarke. Sarah Matthews further threatened Clarke in a menacing attitude, provoking him to fight, or to strike her, which, no doubt had he attempted either, Miss Matthews and family, who were looking on, would have fallen upon him, and then taken ample satisfaction for his having given evidence against them at the Quarter Sessions. Clarke however acted more wisely, when he found himself thus beset. He at once said, as his master was from home, he would go up to Mr. White. the Special Justice (and which he did immediately) and lodge his complaint before him: Clarke knew that himself, as a Special Constable, was an officer under, and appointed by Mr. Special Justice White, and therefore he not only looked upon Mr. White as His Majesty's Special Justice there appointed to look into all cases of complaints amongst the apprentices, but he also looked up to him as his commanding officer, who delegated to him, the power of a Special Constable, as by the following warrant or commission which Clarke held, *(see the appendix)* and to which he was most solemnly sworn to obey; therefore he fully expected to have been countenanced by Mr. White; to have received his applause, for his patient conduct, and his assistance to redress the insult and attack of Sarah Matthews; but instead of his receiving any redress or satisfaction at the hands of Mr. White, either as his commanding officer or special justice he got a severe reprimand, with a threat that he should he committed to jail, which would teach him for the future, not to meddle in any matters with Miss Matthews, and at the same time, gave him the following austere and peremptory note to Mrs. Sterne.

Kildare House, St. George, 10th January, 1835.

Madam,—I request yon will attend at Buff Bay Court House, on Tuesday, the 13th instant, at 10 *o'clock, a.m., that I may*

investigate the matter between your servant, David Clarke, and Sarah Matthews, the property of Miss Matthews.

FREDERIC WHITE, Special Justice.

To Mrs. Sterne, Buff Bay.

It will be observed, I returned from town during the Friday night, or rather 2 o'clock Saturday morning—on which morning, at 10 o'clock, I had to attend the already mentioned trial of Lemasney *v.* Sterne. Mrs. Sterne partly told me in the morning of what had passed in my absence; but, being so occupied the whole day, I had no time to speak to Clarke on the subject. It, however, helped to convince me that a regular plot was entered into by the friends of Mr. Bell to work my ruin, and drive me out of the parish, and it also helped to make me more particular at the trial. The following Monday, the 12th, was also a very particular day, which engrossed all my attention, the Constable having made a levy on my furniture for the fine and costs imposed by these Daniel Magistrates, and my arranging every thing on closing up the Wharf from being public. So that, on Tuesday morning, the 13th January, when Clarke applied to me, about his having to attend at the Court House on Mr. White, I hardly knew what to do. At first I felt indignant at Mr. White's austere note to Mrs. Sterne attempting to summons her forth in public, on such a matter, and declined allowing her to go. But the poor man, Clarke, pleaded so hard for me to allow Mrs. S. to go, that I enquired into the full particulars of the story, *and, finding from Clarke, that Mr. White, instead of promising him his support, as one of his Officers, had sworn to punish him, and commit him to jail,* I then determined at once to allow Mrs. Sterne to go, and to accompany her there myself—and likewise took my clerk, Mr. John Edward Anderson, who happened to be in the house on Friday when the dispute happened, and would thus be a most excellent witness in the matter.

It happened to be a very wet day, the rain fell heavily, and the streets were covered with mud; nevertheless, as soon as we learnt the Court was opened, we all attended, when the most oppressive and disgraceful scene ensued. Mr. Justice White was on the Bench, and, as soon as he perceived us enter, with an oath he called the man David Clarke forward; and, as he was the accuser, or complainant, Mr. White made him take the Bible and swore him. *Clarke gave a very clear and plain statement of the facts, which was at once simple and to the purpose;* but my being present, Justice White appeared staggered what to do: he commenced to scold the accused party, when up stepped a volunteer apprentice (*whose kept mistress was Kitty, that also belonged to Miss Matthews, and whom Clarke had likewise brought up before Justice White for bad conduct, only two*

weeks before,) who stated he was present, and gave Mr. White to understand that Clarke was as bad as the woman he accused. This was just what White wanted. He at once swore out to Clarke that he would commit him, and commenced to write the committal accordingly. On this I appealed to him, and solicited him to hear evidence on Clarke's behalf; he was both noisy and sulky, but my being urgent, he allowed my Clerk, Mr. John Edward Anderson, to be called up and sworn, who fully corroborated Clarke's testimony; *but he (White) being fully bent, at any hazard, to punish the man, and, under a feigned show for Justice,* said he would commit the woman also, and accordingly *sentenced both the accuser and the accused to be put in irons, and to have one week's hard labour in the Workhouse.* I must say, I felt excessively indignant at this most unjust conduct, *(but I well knew what I was about, so as not to forget myself, as Mr. White's witnesses wished to make it appear I did, on the trials that ensued,)* so I stood up and addressed his Worship, wishful to remonstrate, and saying I stood there in defence of Clarke, my apprentice, and hoped his Worship would hear me; Mrs. Sterne, I now said, was there in obedience to his own summons, which I then held in my hand, and I entreated of him to hear Mrs. Sterne's evidence in his behalf, *but Mr. White was deaf to my entreaties, and at once, with expressions of malicious exultation, committed poor Clarke.* I again and again urged upon Mr. White to release my apprentice Clarke, and called his attention to a circumstance which took place only a few weeks before, viz.—Clarke, in his capacity as a Special Constable, had brought up before him an apprentice girl of Miss Matthews' *(who was the very Kitty before named, or kept mistress of the volunteer witness, now against Clarke)* for insolence and insubordination in my yard. and for which he, Mr. White, sentenced her to two week's hard labour in the workhouse; but immediately on the sentence being passed, in stepped his Honor the Custos, and having learnt what had just passed, and finding that the apprentice girl belonged to Miss Matthews, he interfered on her behalf, and Mr. White, on his bare interference, called back the already sentenced prisonor, and let her go free. On my calling his Worship's attention to this fact, *he flew into a most violent passion, and abused me from the Bench, in epithets unbecoming the character of an ordinary gentleman, much less that of his Majesty's Justice in Court sitting.* He said to me, Aye, Sir, you wrote to the King's House about this, did you not? Now, then, you may go and write about this also. Whereupon I denied the charge, and declared I had never written ought about him. He said he knew better, and ordered me immediately to shut my mouth, and quit the Court-house; and that if I did not, he would commit me, and put me alongside of my man Clarke.

Knowing him to be a most desperate, tyrannical tyrant, as the following case will, I think, warrant me in thus saying, I thought it more advisable to say no more but to take Mrs. Sterne out of his court, and submit the matter to the Governor.

Extract from the Jail Book, of the Parish of Saint George, under date as follows :—

18th December, 1834.—Committed, John Bewsha, a private in the Portland Police, by Frederic White, Special Justice ; to be double ironed.

10th January, 1835.—Released, by order of L. D. Curtin, after 29 days' imprisonment.

This poor man, Bewsha, had been sent with an express by Mr. Wm. Nethersole (who, by the bye, is a brother of Mr. White's particular friend, John Nethersole, of Kingston), from Portland. It was late at night, and quite dark when he reached Mr. White's residence, so he looked about for a place to sleep, and finding the necessary door open, he went in, and there stretched himself out and slept. Mr. White, having got up very early in the morning, went to the necessary, and there found this poor fellow asleep. He awoke him with kicks, and bawling at him, in his usual strain, with tremendous oaths, so frightened the poor man as he awoke up from sleep, that he took to his heels and began to run ; Special Justice White always kept a body guard of policemen, with swords and guns at his quarters, called out upon them to pursue after the runaway ; they soon overtook, and brought him back ; he forthwith wrote out a committal, and sent him handcuffed to jail, with a strict charge to double iron him and keep him close, swearing he would teach the fellow better manners ; thus was this poor unfortunate, for no crime, no offence, but for having merely taken up a night's lodging in this mighty Special Justice's necessary, incarcerated in irons and in a dungeon, until this high and mighty justice should think proper to release him. He being, at this time, the sole Special Justice for the parish, was allowed to do as he pleased, by all the local authorities there, as his favour was courted, to enforce the apprentices to work.

The poor man being thus severely handled, both feet in strong iron shackles, and handcuffs on his wrists, and that too in a closely confined dungeon, in a hot climate, soon brought on fever, and in a few days the jailor was obliged to send word of it to Mr. White, with a request that the poor man might be released ; but the only message he received back was, " damn the fellow, keep him there till I have learnt him better manners," thus the poor fellow was still kept in ; on the 22nd day of this severe ill-treatment Mr. White called at the prison, and ordered the unfortunate to be brought out before him, he taking a seat

in the mean while above in the Court house, the deputy jailor having released him of his irons, ordered him out, but the unfortunate was unable to lift himself up, being so sore and stiff from the irons and fever; Mr. White seated above had lost all patience waiting for him, and kept vociferating out, " where is he, damn the fellow, bring him forward, &c." the deputy jailor was compelled to get two of the jail negroes to help him, one at at each arm, to come forward; at length White espied him being thus assisted forward, and he sung out, " aye, damn your eyes, you are shamming are you, well, you sha'nt sham with me, put him back, put him back, and when I call for him again, I warrant he will come faster," the poor unfortunate was again put back, again double ironed, and how he survived is a matter of wonder, suffice it to say, White never released him, and I dare say never would, but the man became so sick, that on the 29th day of his confinement Mr. Curtin, the Inspector of Police for Saint George's, took upon himself the responsibility of releasing him, and when he was released, he was obliged to be carried in a cot to the police establishment of Saint George's, and there he lay for about six weeks before he could stand upright, and it was a miracle that he survived at all.

This is but one sample of the amiable and brave Special Justice White, Lieutenant in his Majesty's Navy, &c., held up in the Colonial newspapers as the best Special Justice in the Island, and, finally, presented with a piece of silver plate, by a few of his beloved Parishioners, *as a reward for his admirable dexterity in coercing the poor apprentices, late slaves, into submission and obedience.*

Another case of atrocity had nearly taken place only a few weeks before this, in the following manner, (but the party was a young man of some respectability, and the local Magistrates would not sanction Mr. White's attempt to incarcerate him; the young man was of colour, but the son of one of the oldest and most respectable freeholders in the parish, and he himself was as respectable a lad as any there):—Mr. Justice White was riding up the mountain district of the parish, and suddenly met up with this young gentleman in the road, who had got off his horse, and was making water. The young man was somewhat dark, and White assailed him in his bombast way, to know what he was about, what he was doing, and to whom he belonged? The young man, indignant, answered him in return—Who are you? what are you, Sir? What, says Justice White, looking at his red cuffs and collar, do you not know me, His Majesty's Special Justice; I will make you know me, Sir, and I will teach you to respect me Sir, so, having found out his name, he made an affidavit of the insult, as he termed it, and stated therein, that he had met up with this young man in the King's highway, openly

and indecently exposing himself; and having laid this before the Custos, and one or two others of the local Magistrates, he insisted that for his protection, and for example sake, in order to keep up his dignity as a Special Justice in the parish, they should, by the power vested in them under the Vagrant Act, commit him for one month's hard labour to the workhouse; and d——n my eyes, says he, publicly, in the Court-house, but I will attend the workhouse myself, and see that he carries the gold chain around his neck, and gets d——d well worked. The Magistrates refused to grant such a committal, but advised White to bring it before the Quarter Sessions, and then, if the Jury found the young man guilty, they would commit. White actually instructed the Deputy Clerk of the Peace to prepare an indictment for the Quarter Sessions against him accordingly.

But in the mean while the young gentleman's father arrived from England, and being a particular friend of mine came to my house to be advised about it, and requested of me as a friend, to wait upon Mr. White, and endeavour to get the matter compromised; at his request I rode up to Mr. White and intreated of him to let the matter pass off; White consented that he would, on condition of the young man's writing him an apology, expressing his regret for the past, I returned to my house, where both the father and the son were in waiting, and both were very thankful for my interference; the old gentleman immediately consented to an apology, so as to put an end to the affair; but the son was at first indignant at it, and defied White's power to punish him. "What," says he, "it was he that insulted me, and not me him," but the old gentleman was for peace, and commissioned me forthwith to draw up an apology for his son to sign, which I did with my own hand, and the son signed it, and I again rode up to Mr. Justice White with it, which, when Mr. White received, he was satisfied, and expressed himself as thankful to me for getting the matter done away with as the old gentleman. I then got him, Mr. White, to give me a note addressed to the Deputy Clerk of the Peace, ordering him to stop all proceedings against this young gentleman, and this note I gave to the young gentleman's father, on my return, as he still waited at my house till the affair was quite settled—thus I was fully acquainted with this fact, and had the satisfaction of receiving the thanks of all parties concerned in it. White, however, had this apology read aloud in open Court of Quarter Sessions. *Such was his vanity.*

Another most unwarrantable case he also committed about this time; he attended at Esher Estate in Saint Mary's, and on his being about to go away, something happened to the straps of his portmanteur saddle, so he hailed to one of the young gentlemen, a bookkeeper on the property, and in a very imperilous

manner, ordered him to go and bring him some string, the young gentleman thus addressed, refused to obey, and turned up his nose in contempt. What! says Justice White; by G—d, Sir, I will teach you. Here. police, commit this fellow; and was about to write a committal for him accordingly, when the overseer interfered, stating that it would be such a disgrace if that were done offered to do anything else, in order to give him (White) satisfaction. Well, then, says White, discharge him. So I will, says the overseer, and White saw that he was discharged from the estate accordingly. This fact White himself used to boast of having accomplished; adding, by G—d, that is the only way to do these fellows.

These are three sturdy cases of fact, of his handling free subjects, and many other minor cases I can also speak of. But what shall I, or what can I not, say of him regarding the poor blacks? I will not here cite cases, but will content myself in referring back to my petition, addressed to his Excellency the Governor, under date 19th January, 1835, page 32, wherein I boldly assert,—"*That your petitioner has personally seen the most dreadful and heart-rending lacerations for the most petty offences.*"

I will only just add, that I have myself been present, when special constables have brought up apprentices before him, with a note from the overseer, lodging some complaint against the parties, which, on his opening, I have heard him say, Aye, so you are brought up for so and so—well, I will teach you, and so forth—and so at once proceeded to write a committal, and on the apprentice attempting to speak, so as to justify himself or herself, he would order them to shut their mouths, saying, I have got it here, in this here-paper, so I will teach you all when ever you are brought before me.

He was absolutely hated, as well as dreaded, by the poor negroes. It was said in the parish that he did go, or ought to go, armed with pistols. Suffice it to say, nothing in my opinion, but religion, which widely extends itself amongst the apprentices throughout the parish of Saint George's, prevented him from being waylaid and assassinated.

After he was dismissed by his Excellency the Governor, a small number of the planters in the parish, with whom, or by whom, he was idolized, raised a subscription of about £50, and blazoned forth in the newspapers that he was presented with a piece of plate.

While this was going on in the higher circles, the poor apprentices rejoiced at his dismissal to an exceeding great degree; they sent congratulations to one another from the different properties, blazoning forth his numerous acts of wanton, savage,

and severe ill-treatments—on many estates they made large dinners, killing their hogs and poultry liberally—and afterwards offering up solemn thanksgiving to heaven for his removal.

Now, then, I ask the candid reader, if he can any longer wonder at my patience and caution through the trial of Clarke, on the 18th; or if he can, for a moment, *doubt but that I must have been both patient, cautious, and respectful*; not wishful in the slightest to have committed myself, considering the dangerous ground on which I stood, with my sworn enemies surrounding me; *Custos Bell, whom I had impeached, looking on, and the Judge on the Bench swearing deadly vengeance*, and full well knowing him to be the man who would put his threats into execution. Witness the three foregoing cases cited, of which I was so intimately acquainted with.

Having, therefore, taken Mrs. Sterne out of court, and seen her home, *I began to feel most acutely the base injustice inflicted on my apprentice Clarke*, and which I had not in my power at the moment to redress. And here let me ask, my gentle reader, whoever you may be, where that heart is to be found, so dead and callous, as not to have felt as I then did?

Having seen a second special magistrate at this moment ride up to the court-house, it instantly occurred to me, *that by respectful solicitation and intreaty before this magistrate*, I might have effected *a release for Clarke*, and willing to submit to an *humble solicitation* rather than have the poor man so *unjustifiably incarcerated*, I at once returned to the court-house.

On my entering Mr. White was still seated on the bench, with Mr. Fishburne the other special justice, on his left; I went up to the bench, and respectfully appealed, first addressing myself to the latter, requesting his kind interference, *but White vociferated out to me "be off, be off,"* I still spoke to Mr. Fishburne but he appeared to be greatly agitated and confused at White's violence, and spreading out his hands said to me, *(while White continued to bluster,)* "I know nothing of the affair, I am merely here as a looker on, you must speak direct to Mr. White, &c." but before I could get White to listen to a word, he had *called upon the police who were then in attendance with drawn swords, to force me out of Court*, at the same time swearing, "*by God Sir, you shall never put a foot in a court of mine again*," and advised his associate Mr. Fishburne to act in the same manner, and never allow me to dance a foot into his court, "or if you do," says he, "*the fellow will watch and report all your proceedings.*"

I was seized hold of by the police and dragged or hustled out of the court-house, and accordingly returned home, much

annoyed at such base treatment; sometime after this, say in something less than an hour, I had learnt that the court had broken up, and as I had business to transact with Mr. Hossack, the collecting constable, who attended at the court-house that morning, and made it a practice of attending there on Tuesdays to transact business, I again went up to the court-house; this I think was about 2 o'clock.

At this time I found the court was broken up, the keeper of the court-house had already shut up some of the shutters and, was going on to a final close, the two special justices were in conversation with several individuals who had assembled in a cluster but as soon as they saw me enter they separated from them, and walked to and fro in the court-house; *White vociferated out, asking what I wanted, and damned me for again returning*, asking further, if he had not given me orders never again to set my foot in his court, *and calling upon the police, he ordered them to turn that damned vagabond fellow out*, abusing me in the most opprobrious and unmerited terms; at this time finding there was no court sitting, I said I had equal right there as himself, he became so violent, that I at first thought he was going to lay hands upon me himself, *but he swore at the police, and insisted upon their seizing hold of me, which they immediately did, roughly handling me, and violently dragged me out of the court-house.*

Being thus *insulted, contemned, and lowered* before a large assemblage of my fellow parishioners, and that too, whilst I was only in the *just and lawful exercise of my duty, nay, I might say, my solemn and sacred duty, towards my innocent apprentice*, I leave it to yourself gentle reader, to picture the state of my feelings; here was I on the 7th and 8th denied even-handed justice by a bench of magistrates; on the 10th brought up before that very same body of magistrates, and most wantonly and illegally fined in a heavy sum of money; on the 12th my furniture seized upon by a constable, and advertised for public sale, to pay this illegal fine; *and on this day the 13th, my faithful servant and apprentice seized upon, barbarously loaded with irons, and ignominously degraded, chained to felons*, (that is negroes condemned to work in chains for life) *and there with them condemned to hard labour for one week*, and this too done by one of the same three magistrates, *and all for what, but for only being faithful to his duty, 1st as a staunch witness on my behalf, and 2nd for obeying the orders of his mistress, and protecting her and my property from violence and trespass, whilst I was absent from home.*

Besides all this severe ill treatment to myself and my apprentice, I also sustained injury of a most serious kind, for

in consequence, *my neighbours and even those who were friendly towards me, were afraid to hold any communication with me, lest they should draw upon themselves the tremendous power exercised by Mr. White at his mere whim and caprice; my clerk left me, and I was pointed out throughout the parish as one disgraced by the special magistrate.*

On Wednesday the 14th I took horse and posted off to town, intending at first to wait upon His Excellency the Governor with a complaint, but having met with an intimate friend in Kingston, who by the bye is also a Magistrate for Saint George's, I was dissuaded fom such a step, and preferred addressing him a memorial in due form, which I did. (See page 29). I went on to Spanish Town to my solicitor, Mr. Harvey, and there with his assistance, I prepared my affidavit, (see page 37), and had all the other necessary papers prepared on proper stamps, for the obtaining of a writ of certiarori to quash the proceedings of the mock summary trial of the 10th But when I returned back to town *I was reminded of the vindictive disposition of Sir Joshua Rowe, the chief Justice, who was bitter against me for having about 12 or 18 months before, sent him an action for a large account which he had been long owing me*; at same time reminded of the power he had of refusing the writ and saddling me with costs which would have been considerable, my solicitor alone requiring from me forty or fifty pounds before he moved in it. On consulting therefore with Counsellor Watkis and finding I had good cause of action against the three magistrates *for signing the illegal warrant for fine and costs* (*see page* 63). I determined on sending them such action immediately *for the Saturday then coming, say Saturday the 17th, was the last day of summoning for the ensuing grand court.* I now employing Messrs. Mowat and Read, solicitors of Kingston who prepared the actions, Counsellor Watkis settled them and they were sent out accordingly.

The following appeared in the Watchman's Newspaper of Wednesday, the 21st January, 1835.

EDITORIAL REMARKS.

We would call the attention of our readers, and the executive to a communication in this day's impression signed X. Y. Z. and having reference to the conduct of Mr. White, the justice for Saint George's.

If the statements made in that communication be correct, and we have no doubt they are, Mr. White's conduct has been most infamous. He has been grossly unjust in his decision in the case of Mr. Sterne's apprentice, and has also committed an act of tyranny and oppression, in incarcerating one of the police,

a white man in jail for twenty nine days, for the henious crime of falling asleep in his out office.

Were it not that we believe the writer of the article in question incapable of preferring charges of so grave a nature, unless satisfied of their authenticity, we should be led to conclude that it was impossible that any individual, not an absolute fool or madman, would dare to act in the manner Mr. White is represented to have done in the matters alluded to.

Mr. Sterne, we hope, will bring the conduct of this special before his Excellency the Governor, who, we are persuaded, will not tolerate such conduct in him, or any other. *Either the woman was guilty or she was not. If the former, then she should have been punished—if not, discharged.* On the other hand, when the charge was brought against Mr. Sterne's apprentice, after hearing the evidence against him, Mr. White was bound in duty, and by every principle of justice, to hear all that could be urged in his defence, instead of hurrying the complainant and the complained against to the workhouse, in the manner represented. Then, Mr. White must be taught that his is not a Court of Star Chamber, but an open one, at which every one who choses has an undoubted right to attend, either for his own pleasure, or for the purpose of reporting his conduct and decisions, either for the press, or communications to his Excellency the Governor. These devil-me-care gentlemen, of whom Mr. White appears to be one, must be taught good manners, and that respect for the rights and feelings of others, so necessary to secure respect for their own. *It is not to be endured, that a man, whether rich or poor, is to be ordered out of a Magistrate's Court, and forbid in future to enter it, in the same manner Mr. Sterne has been.* This sort of conduct must not be tolerated. It need not be, when the means of redress are at hand.

With regard to the case of the injured policeman, we have only to say, that, being under the immediate protection of his Excellency the Governor, it is not likely that Mr. White's conduct will escape unnoticed. We have yet to learn that any such power as that exercised by him is permitted by any law, or rule, or regulation in existence for the governance of the police, and whether any body of men would long continue to be treated in the manner represented.

The charge against Mr. White is fourfold—

1st—For injustice towards Mr. Sterne's apprentice, and illegal imprisonment of him.

2nd—For infamous and disgraceful treatment of Mr. Sterne himself, in consequence of his defence of his apprentice.

3d—For an assumption of power not vested in him, in prohibiting that gentleman from visiting his court; and, lastly,

4th—For the unjust and illegal, and cruel incarceration of a policeman in the jail, in irons, for a most trifling offence, if, indeed, it can be called an offence at all.

To the Editor of The Watchman.

Sir,—Allow me to give you a sample of the injustice and oppression which occurred at Buff Bay, on Tuesday, the 13th instant. A more oppressive and tyrannical instance than that which I am about to relate has, probably, not occurred since the special magistracy have been sent out to this island.

Mr. Sterne, a residenter here, was, last Friday week, in Spanish town; during that day a troublesome landlady of his, who had been taking forcible possession of a part of his premises, presumed to take further possession of his horse-stable. Mrs. Sterne very properly called upon her servant, who is a sworn special constable, to go and put the horse out, and fasten the stable. The poor man, who had before received abuse from the lady, and threats from Mr. White, the special magistrate, for having been too faithful to his trust, now told Mrs. Sterne that he was afraid; but, however, being further urged and ordered by Mrs. Sterne, he obeyed, and immediately got a volley of abuse from an apprentice woman belonging to the lady, and who, by the bye, had been only on Thursday before at the Quarter Sessions publicly convicted of larceny on Mr. Sterne's property, through the instrumentality of him, the said special constable; she further threatened him in a menacing attitude, and the poor man said, rather than put up with such, he would go up to Mr. White to complain; he went up accordingly, but instead of any satisfaction, got a reprimand, with a threat that he should be committed to gaol, and a most severe and peremptory note from Mr. Special Justice White to Mrs. Sterne, calling on her to attend, as on Tuesday last, to give evidence in the matter.

Mr. Sterne returned from Spanish town, and found matters thus, and would not have suffered Mrs. S. to attend at the court house, at the instance of this note, but only for the purpose of seeing his apprentice righted, well knowing the malicious spirit raging in the breast of Mr. Justice White against this poor man, and likewise against himself. Tuesday came—the rain fell heavily, and the streets were heavy with mud; but Mr. and Mrs. Sterne obeyed the mandate of the Judge, and attended at the court. As soon as the apprentice and parties were descried, an oath was uttered, calling the former to the bar. He being the accuser, was sworn, and stated the simple facts, *but the Judge had previously made up his mind against him.* A volunteer apprentice, of a second person, stepped up and challenged him as

having been as bad as the woman he was accusing; whereupon Mr. Justice White swore out against him, saying he would now convict him. On this, Mr. S. required of his Worship to hear evidence on his behalf, and accordingly called up his clerk, a Mr. John E. Anderson, who happened to be in the house at the time of the abuse. Being sworn, he clearly proved the woman in fault, but this would not do for Mr. Justice White. *Finding his prey about to escape, he said he would commit the two, the accuser and the accused.* Mr. S. then got up, and requested his Worship to hear the statement of Mrs. S., whom he had summoned there for the purpose of giving evidence. His Worship put one question, and finding thereby his prey must escape, refused to listen further, but immediately committed the poor man and the accused for one week in the workhouse. Mr. Sterne called upon his Worship to stay such a procedure, stating, he stood there in defence of the poor man, his apprentice, and insisted on being heard on his behalf. The Judge declared he had already committed him, and if Mr. S. dared open his mouth further, he would likewise commit him. Mr. S. replied, by calling his Worship's attention to a case that had happened only a few weeks before, viz.—he, his Worship, had committed a prisoner for two weeks to hard labour, but immediately after sentence had been passed in stepped his honor the Custos, and, at his bare interference, *Mr. White called back the prisoner, and let her go free.* At Mr. S. calling his Worship's attention to this fact, he flew into a violent passion, saying to Mr. S., *Aye, Sir, you wrote to the King's House about that, did you not?* Now, then, you may go and write about this also; and, on Mr. S. declaring he had never written a syllable about him, Justice White, he swore, if he dared speak again he would commit him, and ordered the police then in attendance to hustle him out of his court. Mr. Sterne took Mrs. Sterne out of the court, and then returned; at this time a second special justice had arrived, and Mr. Justice White, as soon as he saw Mr. S. come in, ordered the police to seize him and put him out, at the same time advising his friend never to permit Mr. Sterne to put a foot in a court of his, for that he would report his proceedings; *and further gave orders to the police never to permit him to set his foot again in any of his Courts.*

Thus, Mr. Editor, has justice been vilely abused, by one of the very men sent out to uphold it. Through malice the poor apprentice had been committed to prison; and Mr. S., because he is suspected of reporting such oppression and injustice, is scandalously insulted, and shut out from all future special courts of justice. What will the people of England say to this? Was not Mr. Justice White ashamed of his proceedings from time to time, would he be afraid of exposure?

This gentleman's nick name amongst the apprentices is, *the Saint George's devil?* he himself has asserted in the publick court house, that he was thus designated by many who saw and pointed at him in Spanish Town. This same gentleman, Mr. Editor (*will humanity credit it*) had a poor unfortunate police man, a white man, who had been sent to him on an express from Portland, whom he found asleep in his necessary, committed to jail and placed in shackles, and double ironed for 29 days; on the 22nd day he attended at the court-house, and ordered him up, to scold and release him; but being weakened and stiff from the effects of the irons, he was scarcely able to crawl, and because he did not come fast enough he ordered him back for a further week, making it in all 29 days; he was released last week more dead than alive.

Buff Bay, St. George's, X. Y Z.
January 17, 1835.

THE READER *is particularly requested to attend to the dates in this matter, as by it he will more clearly see into the very great injustice acted towards me by Sir Joshua Rowe, the Chief Justice, in my second action against Swire and others.*

Monday 12.—The first levy on my furniture made this day.

Tuesday 13.—White's first attack upon myself and apprentice.

Thursday 15 } In Spanish Town with my solicitor, preparing
Friday 16 } papers to obtain writ of certiorari.

Friday 16.—In Kingston, decided with counsel, and employed Messrs. Mowet and Read as my solicitors, to send out my action against the magistrates.

Saturday, 17th—*The last day of summoning for February Grand Court for Saint George's, and on which day my action came out from the Provost Marshall-General's office.*

Tuesday, 20th—*My furniture, which was first levied on; and for which the present action was brought, was this day sold at public sale, only realizing £24.*

Wednesday, 21st—*The Magistrates received their actions this day at the hands of the Deputy Marshall.*

Thursday, 22nd—*On this day the Magistrates ordered a further levy to be made on my furniture, in consequence of the first levies not realizing sufficient to cover the fine and costs, notwithstanding they were already served with the first action—and they boasted about the parish, that I would have all the costs to pay, as the last clause of the wharf law prevented any other court from interfering.*

Friday 30th the 2nd, Levy of my Furniture was sold.

TUESDAY, 20th JANUARY, 1835.

This was the day on which the first levy of my furniture, which was made by the constable under warrant from the magistrates, was sold. It had been advertised to be sold a tthe court house at 10 o'clock A.M. I attended there with numerous others. Mr. White was sitting there as a special justice on the bench. I had no sooner entered the threshold, than I was singled out by Mr. White, from the crowd, and bawled at by him to know what I wanted there, and enquired if I wanted him, Mr. White. Perceiving that his, Mr. White's, object was to provoke me to an intemperate reply, I remained respectfully silent. *Mr. White instantly called upon the police, who were then in attendance, with drawn swords, and ordered them to lay hands upon me and put me out.* I, as became any subject of the King, declined going out, as I had as much right there as any one else, and laid hold on the bar rails, *Mr. White swore at the police for not forcing me out, when three of them took hold of me, and dragged me out of the public court-house;* when they had put me out of the court-house into the front lobby, where my furniture was being sold, I insisted on remaining there, so the police let me go; *Mr. White perceiving this swore at them again, and told them to put* "THE DAMNED FELLOW" *out into the street, and not allow me to remain under the roof.*

The police then again took hold of me, and by force they dragged me out into the street, and there I remained to see the result of the sale of my furniture; during the time I was waiting in the street at the door, the Honourable Mr. Bell came up, and I called upon him, to know if it was by his orders or sanction that Mr. White had thus acted; telling him the whole story, I reminded him that I had paid heavy taxes, the same as others, and I considered I had the same right to resort to the court-house, as well as the numerous other persons then there; Mr. Bell said he could not interfere; there was a very large attendance of the parishioners at the court-house this day, consequently my feelings were severely wounded by such barbarous treatment; Mr. Dunbar, the deputy clerk of the peace, who was close to the justice's seat, took the liberty of publickly remonstrating with Mr. White on this occasion, on his illegal illtreatment of me.

SATURDAY 24th, the following appeared in the editorial remarks of the Watchman.

Mr. White the special magistrate for Saint George's, has brought matters to a climax with Mr. Sterne, by ordering the

police to turn him by force out of the court-house; Mr. Sterne has we understood, memorialised the Marquis of Sligo, and it will now be seen whether this gentleman will be permitted to act in the manner stated, with impunity.

We regard this matter not merely as a dispute between Mr. White and Mr. Sterne, but as involving the important question. whether a special justice is to be permitted to exclude persons from his court at his mere whim and caprice, and also whether the police, which is paid for by the inhabitants, are to be used as the means of insulting and oppressing those by whom they are paid, because ordered to do so by a special justice! *we know that Mr. Sterne has his remedy at law against both Mr. White, and the policemen who executed his order, in forcibly ejecting the former from the court-house: in a case like this however, we do not think that the injured party should be put to the delay and inconvenience consequent upon the institution of legal proceedings; of course until the Governor's reply is received nothing can be determined upon; but as Mr Sterne's case to day, may be that of any other person to-morrow, we seriously call upon the inhabitants of Saint George's, to adopt measures for the maintenance and protection of their rights, as British subjects.*

A society for that purpose ought immediately to be formed, and subscriptions commenced, in order to raise a fund for the payment of such expences as a resort to legal measures may occasion; by these simple means the tyranny of men in power may be checked and punished, and as there are other men of like disposition with Mr. White in the Island, there would be no harm in forming a similar society in every parish; were this done, and a determination manifested to curb insolence and check tyranny, whenever, and wherever found, those who are desirous of offering the former or perpetrating the latter, would soon find it to be their interest to avoid doing so.

We hate tyranny and oppression in every shape, and therefore call upon the public to check this disposition to exercise it, in the bud. *Acts such as we complain of, if once permitted will be continued. Each case will form a precedent for another,* until at last the insolence of the parties will become unbearable,

It cannot be objected, that we are opposed to the special justices. We would support and defend them in the legal and proper exercise of their duty. *When, however, they overstep the limits of their authority, and set law, reason, and justice aside, following the impulse of their own passions, and outraging the feelings, and trampling under foot the rights, of their fellow-men, they must expect the WATCHMAN to lift up*

his voice against them. The moment they commence to be tyrants, from that moment we commence hostilities against them; nor will we cease to expose their misdeeds until our voice is heard across the wide Atlantic, even by those who have the power and the disposition to redress the wrongs of the meanest of his Majesty's subjects.

Again, we repeat, Mr. White must not be permitted to act as he has done—to establish a Court of Star Chamber or inquisition here. He is a British Magistrate, appointed to administer British laws in a British colony. Hundreds in that colony know the extent of his authority, and understand fully as well as himself the laws he is appointed to administer, and they most certainly will not permit him to set them at defiance and substitute, in their stead, his mere will and caprice. *His Court is an open one, and he cannot legally prevent any person whatsoever from attending it*, nor is there anything in the letter or spirit of the abolition act which renders secresy necessary. The surest method of securing a fair and impartial administration of the law is, by making the decisions of the Magistrate generally known, and the subject of public discussion, and reprehension, if necessary. Mr. White knows this, and we cannot help thinking that it is this knowledge which induces him to exclude Mr. Sterne from the court, whom he suspects willing and capable of exposing whatever he may consider improper. We do not wish to form uncharitable conclusions; but Mr. White's own good sense must satisfy him *that his conduct is capable of no construction other than is unfavourable to his character as an upright and honest judge.* We leave this subject for the present, promising to return to it as soon as we have learnt the decision of his Excellency, the Governor, but trusting that such means will be adopted by his Excellency as will render a repetition of the conduct complained of *unlikely*, if not *impossible.*

TUESDAY, 27th.

On this day, the aforesaid Magistrates, Frederic White, Roger Swire, and Robert Baugh, assembled at the Court-house, and consulted together with the Deputy Clerk of the Peace and the Constable (for the whole five had actions sent them by me, in regard to the first levy) as to the mode of proceeding they were to adopt in defence of my actions, Messrs. Baugh, Swire, and the Clerk of the Peace, Dunbar, employed Messrs. Hill, Davis, and M'Neil; and Mr. White, with the constable, employed Messrs. Whitehorne, Forsyth, and Anderson, *calculating that, as they thought I should be saddled with all the costs*, two sets of attorneys would make the bill of costs larger. *The Constable was the only person who appeared to dread the consequence of this action, and he this day solicited the magistrates to bear him harmless, at same time he paid them*

over £24 the sum which the first levy of furniture had realized, and cautioned them as to the second levy, stating that I had declared I would, next Court, send them a further action for this second levy; but, notwithstanding this caution, they ordered him still to sell the second levy, which they at this time had in their power to put an end to, for it was only advertised to be sold on Friday, the 30th.

LEMASNEY, the Informer, *being there, the Magistrates paid him over the £24, on account of the fine, stating that as soon as the other levy was sold, he should get the remaining 20s.*

With this £25 fine, it was commonly reported throughout the parish, Lemasney bought a cask of wine, and those pretty Magistrates, with the Custos, Mr. Bell, and his brother-in-law, Mr. Hosack, Lemasney's friends, used to assemble together of an evening, and regale themselves, boasting how nicely they had got that out of me, and what a fool I was for having sent them the actions, when the last clause of the law so expressly declared that there was no appeal for me.

It must here be noticed, that I was cautioned by a friend this day not to go to the court-house, for that White had given strict orders to the constable, not to suffer me to put a foot there, and if I did to handle me well—*for, says White, I received this letter (shewing one) from the King's House by last Sunday's post, directing me to watch the fellow well, and by no means to permit him to enter my court, as he is a dangerous character.*

I was afterwards waited upon by a respectable proprietor, who told me White had shewn him the letter, and he had read it, and it was such an one, he said, that, had he not seen and read it himself, he would not have believed that the King's House could have sent forth such; he even offered to undertake to get me a copy of it, if I wished it. But at this time I treated it contemptuously, and did not press for it, as I thought I should soon be able to overcome all the malicious attempts made upon me.

TUESDAY, 3rd of FEBRUARY, 1835.

Tuesdays being the days appointed by the Custos, for two or three magistrates to sit at the court-house in Petty Sessions, (besides which the special justice held his court there on these days) I, on this day, therefore attended there, for the purpose of doing business with the magistrates in petty Sessions, under the new Petty Debt Act; it was rather a wet morning, and I did not go till between 11 and 12 o'clock, on purpose that some local

magistrates might be there; on my entering Mr. White was sitting at the table (not on the judges seat) habited with a black coat on as a private gentleman, (not in the uniform as a special justice) and in conversation with the two Messrs. Sollas's; *the moment Mr. White saw me enter, he jumped up and paraded the Court-house, and demanded to know what right I had in his Court;* I perceived he was in a rage, and did not deem it prudent then to answer him. Mr. White then swore at me, and I then replied, that I came there to see the other Magistrates on business, and not him. Mr. White replied, there are none here, sir, so be off, be off. I did not reply, but leant on the bar rails; White, seeing I did not go out, again swore at me, and as there was no police there at the time, he called upon the constable, and ordered him to put me out. The constable was shy to act, but White urged upon him; he then came up to me; I said, you had better not put hand upon me; Mr. White again swore, and roared out, "*Damn the fellow, put him out, lay hold on him; I will bear you harmless; I have the Governor's authority to put him out; if he wants law, he shall have enough of it; with this, Mr. Edward C. Burgess, the parish Constable, laid violent hands upon me, and dragged me from the bar rails, and put me out.* When outside, I sent in, by the constable, to Mr. White, a summons for him to sign under the new petty debt act, so as to show him the purport of the business for which I was then in attendance; but Mr. White would not sign it, although he was in the constant habit of signing summonses for other people, and returned it, saying, I might wait in the street till some of the other Magistrates came, and then I may get one of them to sign it. I had to wait in the street accordingly, but none of the local Magistrates came, so I was compelled to go home, leaving my business undone.

Besides all these personal attacks and injuries, I was cruelly injured in my character, through Mr. Bell's and Mr. White's joint gross misrepresentation; as a proof of which, Colonel Moody, of the Saint George's regiment, recommended me to His Excellency the Captain General, to fill a vacant Ensigncy in his regiment, but in consequence of the aforenamed representations, then laying before His Excellency, prejudicial to my character: His Excellency refused to attend to the Colonel's recommendations.

About the end of January, being thus situated at Buff Bay, *and seeing nothing but ruin staring me in the face, His Excellency the Governor refusing to interfere on my behalf, or attend to the prayer of my petitions, which injured me more than if I had not petitioned at all,* and the Receiver of Kildare Estate, *countenancing Mr. Lemasney in his most shameful conduct of*

pocketing the heavy fine, and not attending to the Hon. Wm. Miller's request, "*of doing what was right in the matter for me;*" and then the heavy rent of the wharf still running on, *and my Clerk having left me out of fear for Mr. White*, I thought it most advisable to endeavour to get the wharf off my hands. I accordingly offered it to Mr. Burgess, who went round to the Custos, Lemasney, and others, and ascertained from them that they would not molest him for want of weights, &c.; and then agreed with me to take it off my hands; but they would not be satisfied that all was right until I had given them a regular assignment of my remaining term to run, on stamp; which I did as follows:—

ASSIGNMENT OF WHARF.

Buff Bay, 30th January, 1836.

To Mr. Edward C. Burgess.

Sir,—I do hereby assign over to you, from this date to the 5th day of August next, being the termination of my year's tenancy, all my right, title, and claim, as tenant to the wharf, stores, and other premises, at present tenanted by me on this bay, belonging to Kildare Estate, in consideration of your making good to the Honourable William Miller, and Anthony Davis, Esq., the amount of rent, which may be due for such to that date, agreeably to your letter, to that effect, to me of this date.

I am, Sir,
Your most obedient servant,
HENRY STERNE.

NOTICE TO LEMASNEY

Buff Bay, January 30, 1835.

To M. F. G. Lemasney,

Sir,

This is to give you notice on the behalf of the Honourable William Miller, and Anthony Davis, Esquires, *that having been compelled to shut up the wharf*, tenanted by me from them, to the 5th of August next, *in consequence of the oppressive and illegal conduct of the magistrates towards me, at your instance, and not being wishful that the community in this neighbourhood should be made sufferers thereby*, I have assigned over the remainder of my years tenancy to Mr. E. C. Burgess, who has engaged with me, to make good to you, for the aforementioned gentlemen, the rent which may be due to the 5th of August, after which date you will be pleased to consider me no longer the tenant of same.

I am Sir, your obedient Servant,
HENRY STERNE

P.S. Mr. Burgess intends opening the wharf again as a publick one, on his own account. H.S.

It will here be proper to point out to the reader, the very serious injury I here suffered in giving up the wharf; the returns of this wharf are about £800 per annum, but the bulk of it, is from January to the 1st of August, after the 1st of August the crops being all over and the ships all sailed, there is no produce sent to the wharf until January comes round again; now I had unfortunately only taken it on the 5th of August, and held it during the dead season; the whole amount that I had received for that period, which was from 5 to 6 months, was only about £60 which was not sufficient to pay my expenses; as a further proof, Kildare Estates wharfage is about £80 per annum, and I had only received on account of it during the time I held it, from 6 to 7 pounds thus this fellow Lemasney, the Informer, regularly robbed me of four times the amount I had been earning from the estate; and the real loss to me, in having to give up the wharf, was full £600, independent of fines, &c.

FIRST ACTION.

Document No. 1.

In the Supreme Court.

February Term, 1835.

Sterne, Henry, v. Swire, Roger, & all.

Surry to wit.

HENRY STERNE, Esquire, the Plaintiff in this suit, by Edward Charles Mowat his attorney, complains of Roger Swire, Frederick White, Robert Baugh, Robert Dunbar, and Edwd. Cooper Burgess, Esqrs. (the defendants in this suit) of a plea of trespass, *for that* the said defendants heretofore, *to wit on the 12th day of January*, in the year of our Lord, 1835, with force and arms, in the parish of Saint George, in the county of Surry, seized, took and carried away, certain goods and chattels, *to wit*, 5 *couches*, 5 *sofas*. 5 *sofa covers*, 16 *pillows*, *and* 5 *tables*, of the said plaintiff of great value, to wit of the value of two thousand pounds, there found and being, and converted and disposed thereof to their own use, and other wrongs to the said plaintiff, then and there did, against the peace of our Sovereign Lord the King, and to the damage of the said plaintiff of £2,000, and therefore he brings this suit, &c.

EDWARD C. MOWAT,

Plaintiff's Attorney.

Note.—This action having been thus settled by Counsel, and sent out through the Provost Marshal General's Office, on

Saturday, the 17th January, was served upon the Defendants, by the Deputy Marshall, on Wednesday, the 21st, *all prior to the second levy having been made*, the constable himself being one of the defendants, had his action in hand, which he shewed to each of the three afore-named Magistrates, cautioning them not to proceed, and soliciting their protection in consequence of his obeying their orders. *This is here particularly noted, to shew the injustice of Sir Joshua Rowe, in my second action.*

Matters remained thus, until the April Surrey assize court came round, when Price Watkis, my counsel employed, received his brief, of which the following are the heads :—

PLAINTIFF'S CASE.

Document No 2.

It appears that the plaintiff kept a wharf on Buff Bay, attached to Kildare Estate, which he rented from the representatives of that property, and that, owing to the ill will of the overseer of the parish, a Mr. Lemasney, Mr. Sterne was proceeded against under the wharfage law, 44th, Geo. III., chap. 15, and fined £25, *and £5, costs of the prosecution ;* and a distress warrant was accordingly issued against him, and thereunder the goods mentioned in the action were levied on and sold.

Subsequently, other goods were levied on and sold, which latter goods do not, however, form any part of the trespass now complained of, as they were levied on since the issuing of the action, &c. &c. &c.

WEDNESDAY, 15th April, 1835.

On this day, in the Surrey Assizes, this first action of mine listed in Court, as Sterne *v.* Swire and others, came on to be heard ; the following composed the Court and Jury ;—

THE COURT.

Sir Joshua Rowe Knight, Presiding Judge.

Assistant Judges—The Hon. **John Mais : Hector Mitchell ;** and **W. King,** Esquires.

THE JURY:

1 Allen Kennedy,	of Saint Andrew,	a carpenter,
2 D. M'Kenzie,	St. Thos., in East	planter,
3 J. T. M'Dougall,	Saint David,	carpenter,
4 John M'Lean,	Saint George,	planter.
5 George Good,	Kingston,	brickmkr.
6 John F. Morrison,	Ditto,	cabinetmr
7 James Russell,	St. Andrew,	planter,
8 J. H. Smith,	Kingston,	sculptor,
9 Abraham Pinto, jun.	Ditto,	retailer,
10 Archibald Mitchell,	Ditto,	shipwright
11 C. W. Oshorn,	Port Royal,	planter,
12 W. Ross,	St. Thos. in East	carpenter,

The cause having been called over from the court list, my witnesses, and all other parties concerned, being in attendance, PRICE WATKIS Esq., in a very masterly manner, opened the pleadings as my counsel. He gave the court and jury to understand that this was a case or action for trespass, against the defendants, who, in their capacity as Magistrates, had caused the goods of the plaintiff to be levied on, under an illegal warrant, In fact, that they stood charged with having exceeded their jurisdiction in *toto*; that they had, in a most illegal manner, caused the plaintiff to be brought before them in a summary way, *and then in a most cruel and unjustifiable manner, imposed a heavy fine, with costs, for an offence, if it could possibly be termed an offence, over which the law gave them no power* Gentlemen, the charge brought against Mr. Sterne, was by a Mr. Lemasney, who sent him a note at a late hour of the evening, to furnish him with the weights of several hogsheads of sugar, sent to his wharf from Kildare Estate, which Mr. Sterne refused to give at the time, as it was past 6 o'clock, when the law required all wharfs to be closed. *But, gentlemen, although this sugar was sent to my client's wharf to be shipped, it was never in his absolute charge, but placed in a store adjoining his wharf, which belonged to Kildare estate.* Gentlemen, continued the learned Counsel, I hope before I have done, to unfold to your view such a monstrous scene of outrage on the property of my client, as will cause you to award him ample damages, and repay him for the *enormous expense* he has been put to, in order to bring this most atrocious case before you. (Mr. Watkis appeared very ill and weak, evidently labouring under severe indisposition.

Mr M'd BAYNE, a clerk to Messrs Mowat and Read, being called up and sworn—Proved that he had served a notice to produce the original warrant on Mr. Anderson, on the 7th of April.

Messrs. PANTON & MIDDLETON, were the two counsel for the defendants, with two sets of solicitors, viz.—Messrs. Whitehorne, Forsyth, and Anderson, as also Hill, Davis, and M'Neil.

Mr. PANTON contended, that the service on Mr. Anderson did not bind him. He, as counsel for part of the defendants, knew nothing of Mr. Anderson.

Sir JOSHUA ROWE—Shew me the record; which, having been handed up and duly examined by him. His Honor stated, that it appeared, on the face of the record, that Mr. Anderson had very properly entered a plea for the whole of the defendants, and therefore the Court would not allow the record to be falsified.

The notice to produce the original distress warrant was then read as follows :—

JAMAICA SESSIONS.

Document No. 3.

Jamaica, Ss. *Sterne v. Swire, and others.*

In the Surrey Assizes. } TAKE NOTICE, that you will be, and you are hereby required, to produce at the trial of the above cause, a certain original Distress Warrant, or authority to levy on the goods of the plaintiff, signed by the defendants, Robert Baugh, Roger Swire, and Frederic White, and dated the tenth day of January, 1835, in order that the same may be given in evidence, if necessary, at the trial of the above cause, on the part and on behalf of the plaintiff, therein.

Dated this 7th day of April, 1835.

MOWAT & READ,
Plaintiff's Attornies.

To the Defendants in the above cause, and Messrs. Whitehorne, Forsyth. and Anderson, their Attornies.

The Defendant's Counsel then gave up the original warrant, which was read in evidence, (see document No. 4, at page 63.) Documents No. 5, No. 6, No. 7, No. 8, No. 9, and No. 10—all on stamps—were now put in, and severally examined and endorsed by Sir M. H. Nepean, the clerk of the court. They are the original subpœnas for plaintiff's witnesses, with affidavits of service thereon, and affidavits of materiality, requiring the witnesses testimony—each witness had been brought forty, and one, sixty miles, and, consequently, had received, at the hands of the plaintiff, one shilling for each mile, which is termed mile money, besides the usual service money, at the time when they were served with the subpœnas, to appear in court to give evidence.

First witness, M. M. SOLLAS, Esquire, having been called upon the boards, he demanded his expences; the chief justice enquired how many days he had been from home, he stated five, and it would take him one to return; the chief justice then ordered plaintiff's counsel to pay him over at the rate of 26s. 8d. *per day, which was* £8.; *that sum having been paid, he was sworn:*—

He proved the signatures of the three defendant magistrates to the warrant, as also the writing of the warrant to be that of the defendant, Robert Dunbar, deputy clerk of the peace; *in answer to various questions* put by both plaintiff and defendants, counsel, as well as the court and jury, he stated, he was present during part of the summary trial, Lemasney, v. Sterne, the three defendants, Swire, Baugh and White acted as

Magistrates, Dunbar acted as deputy clerk of the peace, and drew out the warrant; witness purchased the goods at the public sale, sold them afterwards to plaintiff: did not purposely purchase them in for Sterne: Sterne never commissioned him to buy them; Sterne never authorized his father, to his knowledge, to buy them: Sterne has since again sold them: has frequently heard him speak of the trial: *Sterne has very often questioned the legality of the Magistrates, and he has often had good reason for doing so;* heard plaintiff hope that he would, by a verdict teach them their duty; never heard Sterne say he expected to get swinging damages: *Sterne has had frequent cause to complain of the conduct of* the Magistrates; never in the habit of drinking in Sterne's house, is not more Sterne's friend, than he is a friend of any of the defendants.

Second Witness, Mr. JOHN E. ANDERSON, having been called upon the boards, claimed his expences; the chief justice awarded him five pistoles, or £6. 13s. 4d. which amount was paid, and he was sworn:—

In answer to various questions put, witness replied; was present when the levy was made; identified the warrant; is acquainted with plaintiff, and Burgess the constable; should imagine the goods first levied on to be worth more than £40; they were subsequently sold for about £24; is of opinion the goods were sold at a considerable sacrifice; there was two levies, both made under the same warrant, but different periods; the goods taken on second levy were worth more than £16.

CHIEF JUSTICE. *Was there two levies under the same warrant?*

Mr. WATKIS. *Yes your Honor, there was two levies made, and both under the same warrant, but at different dates, but we have nothing to do with the second levy now, that was made after our action had gone out; our present action is only for the first levy.*

CHIEF JUSTICE. *Oh! Oh! very well Mr. Watkis, go on with your witness.*

Q. Were you present when the proceedings in court took place?

A. Yes.

Q. Was Mr. Sterne permitted to call evidence?

Mr. MIDDLETON, *for the defendants, objected to the question, as they were not reviewing the proceedings of the court; all that the plaintiff had a right to prove was, that the defendants had exceeded their jurisdiction, and that, they could only arrive at, by the warrant and conviction The very wharf act itself enacts, that any proceedings under it, shall not be reviewed by any other court.*

CHIEF JUSTICE, *monstrous, most monstrous, Mr. Middleton. Why, then, there is no getting redress in this country.* We shall rule to the contrary.

Mr. MIDDLETON Why, your honour, I will read the clause; reads—" *the proceedings in any such case shall not be removed to, or revised by the supreme court, or any other court whatever.*"

CHIEF JUSTICE—*How then is the plaintiff to get redress?* We shall rule otherwise.

Mr. MIDDLETON *Then your honor, we shall certainly tender a bill of exceptions to this decision. if judgment goes against us.*

WITNES'S examination resumed. Went to the court-house after the case had commenced; saw the several defendants, Mr. Swire, Mr. Baugh, and Mr. White, who sat as justices; Mr. Dunbar, the deputy clerk of the peace was also there, taking down the evidence; Mr. Sterne offered to shew counsel's opinion in contradiction to the opinion of the magistrates, it was not received; the Magistrates said they would not be dictated to by Sterne, and that their own opinion was better than counsel's; the Captain of a ship's boat went with me to give evidence for Mr. Sterne; Bargess I do not think was present then.

The court only heard a part of the Captain's evidence, and then broke up in disorder and confusion. Mr. Sterne told the Magistrates he had further evidence, but they would not receive it. The Magistrates ordered Dunbar to draw up the warrant. *Mr. Sterne was treated very abruptly by the magistrates. Before the court broke up Mr. Swire got up, and said his mind was made up already, Mr. Swire left his seat and walked off; he went across the courthouse, and cocked his foot up at a window.* Saw several notes from Lemasney to Sterne. Lemasney sent orders to the wharf to ship sugar. The one produced is in his handwriting; the sugars were shipped.

CHIEF JUSTICE *This is a case that had better be settled out of court; there is no doubt that the magistrates exceeded their jurisdiction.* It is unfortunate that magistrates do not get competent individuals as clerks of the peace; had there been one in this case, they would not have got into this scrape.

Witness cross-examined. Was present when the first levy was made by Burgess; *was plaintiff's clerk at that time, I am not now, I was afraid to remain with him;* the articles were taken to the court-house about a week afterwards and sold; Mr. Sollas purchased them; Sollas and Sterne are friends; saw the goods again at Sterne's house a few days after; Mr. Sterne was acting as his own lawyer; he is in the habit of doing so in Saint

George's; all that Dunbar did was to take down the evidence, and make out the warrant; did not hear him question Lemasney, exit.

Witness called back, re-examined. *Mr, Sterne's family was residing with him when the levy was made, and was much inconvenienced when it was taken away; the table levied upon, was the only one they had in their house.*

Third witness, ISAAC SILVERA, Esquire, sworn, claimed his expences, six pistoles, or £8 was awarded to him, and paid by plaintiff.

In answer to questions put, witness replied, knows plaintiff by sight; was present at the court-house on Buff Bay when the court was formed; the defendants were all there; the court was formed below stairs; there was an election of vestrymen and churchwardens on that day; *I am proprietor or freeholder;* I attended there to vote; *plaintiff objected to the Court's proceeding, as they were acting illegally;* there was a great deal of noise below; *the Court adjourned above stairs,* followed them up; the proceedings of the court were here also objected to by plaintiff, as he was improperly served with a notice; *but the Court would not listen to anything Mr. Sterne offered to adduce, nor would they hear his witnesses;* Mr. Sterne protested against their proceedings; *the magistrates said the plaintiff might seek redress where he could, as he had no appeal against their decisions, the Court was in great disorder, and very noisy;* Mr. Lemasney was examined; he stated that he had sent to Sterne for the weights of some sugar which had been shipped, but which Sterne refused to give him; Sterne said he only received the note after office hours: plaintiff told the magistrates that they were acting illegally, and offered to prove it by counsel's opinion, which he held in his hand; Mr. Swire got into a passion, and refused to look at the opinion; Mr. Swire said, by this book only will we be guided, holding up the law, *and smacking the book, and then reading the last clause of the act, exclaimed "ah boy there is no appeal for you!" and Mr. Swire told Sterne he might get redress the best way he could;* Sterne was particular in taking notes; he had a person assisting him; *when Mr. Sterne had commenced his defence, Mr. Swire got up and went to a window on the other side of the court house;* after remaining there some time, he returned and said, what is the time; why we shall be kept here all day at this rate. Mr. Sterne said he was on his defence, and if it lasted for a week they were bound to listen to it. Defendants cried out "tut, tut—pooh, pooh." One of the justices cried out "what is the penalty? Upon being answered, let us s[illegible], and make it half. *Dunbar cried, But you have forgotten my costs;* they

replied, Oh, yes, we forgot that—*and gave costs;* and here the proceedings terminated.

Re-examined—*Never saw such arbitrary proceedings in my life—it was certainly not like a British court of justice. The Justices had made up their minds before-hand—Swire said he had.*

No witnesses were called on the part of the defendants.

A discussion now took place as to the right of two counsel replying upon Mr. Watkis; and it was decided that only one counsel should reply. *Mr. Watkis was labouring under severe indisposition; and the defendants not having called any witnesses their counsel had the right of the last reply.*

Mr. WATKIS now, at great length, addressed the Jury, in which he showed *the great oppression practised by the Saint George's magistrates, or rather the Saint George's Daniels against Mr. Sterne,* and dwelt much on the circumstance of their being under the impression, *that the plaintiff was debarred appealing against their decisions, whether legal or not;* and, in pressing for damages, hoped the Jury would give such compensation as would deter these Daniels from acting with the like oppression in future. What, says Mr. W., is such conduct to be tolerated in a Christian country. *Are magistrates to be allowed to cloak themselves under the garb of the law, for the purposes of oppression?* You have heard, gentlemen, as well as I, the straight-forward evidence given, aud that not given until large sums of money, by way of expenses, were dragged from my client's pocket. *They, gentlemen, were afraid to call witnesses, because they, likewise, must have told you of the disgraceful outrage of these Daniel magistrates.* Such conduct is *a disgrace to any gentleman, much more so in one seated in a judicial capacity.* Is it to be endured, that, because an individual happens to give offence to some great personage, he is to be singled out, by those clothed in the garb of magisterial power, *and, under colour of the law, himself and his family ruined.* Gentlemen, though you have not all in evidence that passed in evidence at this mock summary trial, when my client was so shamefully and disgracefully fined, yet you have enough, gentlemen, to convince you, *that it was a most malicious and deadly attempt made to ruin him.* My client was a wharfinger, and a peaceable residenter on Buff Bay, and *rented the wharf at the hands of the very informer himself; and that informer, knew full well, that there were neither weights nor scales on the wharf, capable of weighing a hogshead of sugar, neither were they ever required;* this has been a regular attempt to rob my client—never was there a greater outrage committed. *Gen-*

tlemen, one of the defendants must be well known to you; so great has been his barbarity in Saint George's, that they nicknamed him the Saint George's Devil. (Here the defendant's counsel got up, and insisted that Mr. Watkis was out of order; that he had no right to tax the character of their client in such a manner. The Chief coincided.) Mr. Watkis continued—Mr. White has been dismissed from his official situation, and *my client has been most cruelly and shamefully ill-used by these Daniels, under colour of law,* and now claims redress at your hands. Mr. Watkis here sat down, evidently labouring under very severe indisposition.

Mr. PANTON, for the defendants, defended the magistrates with great force of argument, and with much ingenuity. *He endeavoured to show that they were not actuated by malice towards the plaintiff;* and commented on the circumstances of the action including the clerk of the peace, and also the constable; and pointed out the great hardship it would be on the magistrates, *if they had mistaken their jurisdiction innocently;* that they should then be mulct in heavy damages, and entreated them to acquit the clerk of the peace and constable. Gentlemen, continued the learned counsel, I entreat you to dismiss from your minds the very heated address of my learned friend. Is it because a mob, or a body of a certain class in society, have thought proper to *nickname one of my clients, as the Saint George's Devil.* Is it because, in his capacity as a special justice, *he has been compelled to use a little severity;* or, is it because my learned friend has thought proper to place him before you in all that *hideous deformity,* that you are now to suppose, gentlemen, *that he is a devil,* and thereby treat him as such. No, gentlemen, *this devil, this hideous monster,* as represented by my learned friend to you, is no such a character; he is one of his country's best friends; he is an officer in his Majesty's naval service, and has fought and bled for his country. But, what shall I say of my learned friend's client, the plaintiff in this suit? Why, gentlemen, he is an individual who has gone and settled himself in St. George's, and has made himself generally obnoxious; he is an obnoxious character. *You have it in evidence that he is a bit of a lawyer,* and we all know what these bits of lawyers are. He has been meddling with the magistracy, and now, gentlemen, he thinks he has a good cause of it, and has brought this case before you, thinking thereby to make his fortune, and has laid his damages at Two Thousand Pounds. But, gentlemen, I tell you, if you give a verdict for more than the £24 or £25, which you have in evidence was the amount obtained for this levy, (for you must bear in recollection that Sollas let him have the goods again,) you will be opening a door of endless prosecutions, and you will soon find that no respectable

individuals will be found, who will accept a magisterial commission. Thus, gentlemen, you will soon find, that the laws which are your safe-guards, will fall into the hands of those incapable of administering them. *Do not trouble yourselves, gentlemen, to calculate all these enormous expenses, which my learned friend tells you his client has been put to, in bringing this case forward before you this day. No, gentlemen, I will undeceive you in this. If you find a verdict for the plaintiff, and I have no doubt His Honor will tell you that you are bound so to do,* it must be only for the actual amount taken from him by this levy. *Your verdict will carry costs, and, by a new rule of his Honor's Court, lately made, the plaintiff will be entitled to full costs out of purse—my clients will have to repay him every fraction he has been put to, even the monies you have seen paid to the witnesses this day.* Thus, gentlemen, taking all these things into consideration, I trust you will exempt the clerk of the peace and the constable, both of whom, I am sure you must be satisfied, acted only from orders; *and that you will find against the magistrates the smallest possible verdict, which, in your wisdom, you may consider will repay the plaintiff for the loss he has sustained,* through an entire error of judgment on their part.

His Honor the CHIEF JUSTICE, charged the Jury, and, in a speech at once independent, dignified, and suitable, pointed out the high and responsible situation of Magistrates generally, *His Honor stated, that in this case he was truly grieved to see the extreme harsh appearance in which they had acted; their conduct was highly reprehensible, and called for the severest reproof. Mr. Swire, in particular, shewed forth a spirit and conduct disgraceful in the extreme.* It was the duty of magistrates to put aside all personal feelings, when seated in their judicial seat—it was their duty to read, and understand the law aright; and when, as in the present case, they are called upon to decide on a penal act, where there is no appeal, then they shew forth the true spirit of an impartial judge, by weighing well the facts and nature of the case, before giving their decision. Magistrates have the greatest responsibility attached to their situation; but it is all erroneous to suppose, as one of the learned counsel would lead you to believe, that they are always held excusable under plea of an error in judgment. If they err, they ought to give such benefit of error to the unfortunate accused; for, if they exceed their jurisdiction, and use oppression, they are always, as my Lord Tenterdon has ruled, accountable for damages. *His Honor then stated, that it would be their duty to find a verdict for the plaintiff;* but the quantum of damages he left to the Jury. *If they merely looked at the value of the furniture, as adduced in evidence before them, they must*

look at the one levy only—which had been sold, but afterwards had found its way back again to the plaintiff, on his paying over the price of the sale, £24, giving such verdict accordingly ; but, if they looked at *the extreme hardship of the case, there were many things to be brought forth to view.* As, for instance, the distress and inconvenience which must have been suffered by Mr. Sterne and his family—as likewise the injury it might have done his good name and credit ; for, if in business, his goods being levied on and publicly sold, must have seriously injured him in the eyes of his creditors ; and so on in such cases, the damages must be proportioned. I would, therefore, have you to weigh well the evidence before you, and decide accordingly. His Honor then said he was of opinion that Mr. Dunbar, the clerk of the peace, should he exempted from the verdict, as he had only acted by the instructions of the magistrates ; yet, it was owing to his ignorance of his duty, that the warrant was thus illegally got up, and placed the magistrates in their present predicament.

The Jury having consulted together for some time without retiring, returned a verdict for the plaintiff—*Damages, Fifty-one pounds, with costs,* against the *magistrates only.*

The following appeared in the Editorial remarks of the Jamaica Watchman newspaper, a week after the trial.

KINGSTON, JAMAICA.

Wednesday, 22nd of April, 1835.

A CASE, *of some importance to the public at large,* was tried, in the Assizes last week, and a verdict obtained for the plaintiff. The action was brought by Mr. Sterne, of Saint George's, against Mr. Roger Swire, Mr. Baugh, and Mr. White, Magistrates, the clerk of the peace, and the constable. The object was to shew the illegality of certain proceedings, which took place at the instance of Mr. Lemasney, the agent or attorney to the landlord of Sterne, before the magistrates named, and to recover damages for the injury sustained, in consequence of the Magistrates having exceeded the authority vested in them by the wharfage act.

In the course of the examination, circumstances came out which too clearly shew the baneful manner in which some country magistrates are in the habit of exercising the authority vested in them for the purposes of oppression, and the gratification of improper feelings towards any particular individual.

Mr. Sterne, it appeared, had rendered himself obnoxious to some of the "*great men*" of St. George's, and they were deter-

mined to wreak their vengeance upon him, *under cover of law*, and by means of those Magistrates, whose duty it was to mete out even-handed justice to all men, without regard to principles, creed, or colour. They did do so; *and the matter would have remained unknown except to a few, had not Mr. Sterne very properly brought it before a Court and Jury, and so exposed the transaction to the world.* A short history of the steps which led to the action in question, may be of service, in order to show how some of our magistrates and their friends manage matters. *Lemasney rented a wharf to Mr. Sterne, without weights or scales, or any means of weighing sugar.* The latter, having got into disrepute with the great men of the place, the former, some time in the month of January last, sent down, late on the evening, to demand the weight of sundry hogsheads of sugar which had been shipped by his order on some vessel. The answer returned by Sterne was, that he would see Lemasney next day on the subject. On the morning of the following day, and before he had an opportunity of seeing Lemasney, Sterne received a notice of a charge which had been brought against him by the former under the wharfage act, for refusing to furnish the weights of sugar when called upon to do so. *The indecent haste with which this charge was exhibited, shows the object of the party who made it,* but this object *will appear still more manifest, when it is recollected that no order had been given to weigh the sugars previous to their being shipped;* and, indeed, that sugars are never weighed at Buff Bay. *The wharf, too, had been rented by this very Lemasney, and when he so rented it to Sterne, he well knew that there was neither scale nor weight, nor any means whatever on it of weighing sugars,* and that it was impossible the latter could have complied with any request either from him or any one else for that purpose. But this circumstance, so far from deterring Lemasney from making the demand for the weights of sugar which had been already shipped, only made him more certain of wreaking his vengeance on his tenant. *The plan was well concocted, and, to all human appearances, there was no probability of the victim escaping.* So far for Lemasney.

Now for the Magistrates, the administrators of the law! When the case came before them, *so determined were they to convict,* that they would not even hear the evidence of a master of a vessel, whom Sterne had produced, for the purpose of showing that it was not, and had not been for years, the practice at Buff Bay to weigh sugars. *Besides, it came out in evidence,* that Kildare estate, to which the wharf rented by Sterne is attached, had its own separate shed near the beach, *to which its sugars were sent for shipment, and not to the usual wharf-sheds or stores.* But it was not in refusing to hear the evi-

dence on the part of Sterne alone, that the Magistrates acted improperly. *Their conduct on the Bench was most disgraceful,* at least that of Mr. Roger Swire, *who appears to have set law and justice, as well a decorum, at open defiance, and acted in a manner not creditable to him, either as a magistrate or a gentleman.* Sterne was, in this indecent and illegal manner, fined £25, with costs; and thus, on the very face of the warrant, it appeared that the Magistrates had exceeded their jurisdiction, and acted illegally. *And all this was done under the impression that the proceedings could not be removed into the superior or any other court.* There is a clause to this effect in the act, and, sheltering themselves under it, the Magistrates thought they might commit any act of injustice or oppression—might gratify the malignant feelings of their friends with perfect impunity. *Mr. Sterne has, however, taught them a lesson* which we think they will not forget in a hurry; and if they are not lost to all shame, they will never favour us with such another *expose* as that which took place at the trial in question.

The attempt of their counsel to prevent the proceedings which took place before them being given in evidence, was worthy of the iniquitous transaction. They were extremely anxious to keep back what took place at the trial at Buff Bay, to confine the plaintiff to the excessive jurisdiction which appeared on the face of the warrant. The absurdity and injustice of such a line of conduct was, however, exposed by the Chief, who very properly remarked, that for every wrong there must be redress, and if the doctrine which was then set up was acted upon, no man's property would be secure. The right of appeal having been denied by the statute, it was the more incumbent on the Court carefully to guard the common law right of the subject It was guarded, *and Mr. Sterne succeeded in obtaining what is not at all easy in this country—a verdict against the magistrates, sufficient to cover the loss he had sustained, and full costs out of purse.* He also succeeded in exposing their conduct—its illegality, and the unprincipled attempt on the part of Lemasney and others, to gratify their malicious feelings towards him. *by a combination as infamous as unjust, and which will long remain a disgrace to the actors in it.*

THE following Editorial remarks, and letter from Lemasney, appeared in the columns of the *Jamaica Herald*, on Friday, the 1st of May, 1835:—

EDITORIAL REMARKS.

We readily give insertion to Mr. Lemasney's letter. It contains a plain statement of facts, and will carry conviction to the mind of the reader, that Mr. Lemasney has been more "sinned against than sinning." At the time of the trial in

question, we had thought of making a few remarks on it, but refrained, *from the reflection that the gentlemen alluded to in the letter, were too highly respectable and honourable, to need any defence of the kind.*

LEMASNEY'S LETTER.

To the Editor of the Jamaica Herald,

Dear Sir,

In the *Watchman* of the 22nd April, which I had by mere chance this day put into my hands, I saw an article reflecting very severely on myself and the Magistrates, who some time since decided the case, Lemasney *v.* Sterne. The circumstances having already gone before the public, as such things generally do in the *Watchman, ex parte,* I beg leave to make the following statements, which can be attested by every residenter of Buff Bay. My object in so doing, is to show that Mr. Sterne was not, in the first instance, the person aggrieved, but that he was the first person who commenced "violating the laws of custom," of which *Watchie,* in his ire, complains so sadly. Is the *Watchman* aware that the following agreement was entered into by Mr. Sterne, viz.—that Woodstock wharfage was to have been retained by the Honourable John Bell, until the end of the year, as additional security to me for the wharf rent? Is he also aware that, at the end of three months, Mr. Sterne wished to do away with this arrangement, well knowing, at the time, that under any other circumstances I wonld not let him have the wharf? The consequence of my refusing to relinquish Mr. Bell's security was, that Mr. Sterne not only obliged me to pay for all produce shipped from the estate, contrary to the old established rule of allowing it to be deducted from the rent, and he closed the wharf, a public one too, thereby obliging me to ship at Annotto Bay. What will the *Watchman* now think of "violating old customs?"

He also asserts there were neither weights nor scales. By reference to the present wharfinger, Mr. Sterne's brother-in-law, he will find that assertion, as well as many others, *false.* I trust I have by the foregoing instances proved, that Mr. Sterne has, all through, been the aggressor. These, with many other petty annoyances, which I could mention, occasioned an affair which I regret has brought before the public, gentlemen, whose character as Magistrates stands in too high an estimation to be either injured or annoyed by any impertinent remarks, emanating from the *Watchman.* I do not intend either to advert to the decision or observations used by the Chief to the Magistrates; *at the same time I must express my regret, that the*

evidence on the part of the Magistrates had not been brought forward, as I frequently solicited the lawyers to do, when, I have no doubt, the impression on both judge and jury would have been very different from that recorded.

Your giving insertion to the above, would much oblige,

Dear Sir, your's, respectfully,

M. FITZGERALD LEMASNEY.

Kildare, 29th April, 1835.

THE following Editorial remarks, and letter from Mr. Roger Swire, appeared in the columns of the *Jamaica Herald*, on Tuesday, the 5th of May, 1835:—

EDITORIAL REMARKS.

In compliance with the request of Mr. Swire—rather than from a belief of its necessity—we give publicity to the following letter. In our opinion, too much importance is attached to the trial, "Sterne *v.* Swire, and others." The defendants in the case are of too high standing for respectability and probity, to be at all affected in the estimation of the community, among whom they live, or of all who have the pleasure of their acquaintance.

SWIRE'S LETTER.

To the Editor of the Jamaica Herald.

Dear Sir.

In consequence of the counsel for the defence, in the cause Sterne v. Swire and others, not having called their witnesses, an ex parte statement of the proceedings at Buff Bay has gone forth to the world, of which the most is made by some of the newspapers, I beg to forward you some of the *facts we could have proved by the most respectable testimony,* which, when, contrasted with the statements made on the plaintiff's side, will, I think, give the proceedings a very different character to the description in the *Watchman* of the 22d—

1st. The confusion stated to have occurred in Court, if it occurred at all, was occasioned by Sterne's impertinent and dictorial conduct to the Magistrates, which induced me to observe (after three times checking him) that "I would not sit there to be dictated to—that the volume before me was my guide; and that if I acted wrong, he (Sterne) had his remedy;" and when I rose and retired to a window, there was nothing before the Court, which was waiting for one of Sterne's witnesses. At this period, a spectator of the proceedings observed, "Well, whatever Sterne may have had to say on former occasions, he cannot now

complain; for I never witnessd greater patience shewn by any Magistrates, and I am surprised how you stand it."

2nd. The master of the drogger *was* heard through his evidence, to the effect that he had never seen sugar weighed.

3rd. To shew there was no improper feelings towards Sterne, I may observe, that one of the Magistrates told him to produce his books, and shew that he had complied with the wharf law; and even then the complaint should be dismissed: he *refused* to produce them.

4th. Silvera swore that he was only acquainted with Sterne by sight—meaning, that he was not on intimate terms, consequently, unbiassed in his testimony. Enclosed is a note to him from Sterne, which, I think, will prove him to have sworn to that which is incorrect.

5th. Sollas swore, that he never heard Sterne dispute the decision of the Magistrates—this is wrong, to my knowledge and to that of every one in Buff Bay.

He also swore that the furniture was not bought in for Sterne. Now, I have evidence that the constable said this was the case at the time of the sale, and inquired if the sale was, legal. I could mention several other particulars, but am limited for some time. I must, however, add, that I was not senior Magistrate on the occasion, but was associated with another and I would not proceed with the matter till I was assured that Sterne had received notice of the intention to apply for the weights of the sugar, previous to its shipment, thereby giving him an opportunity of doing his duty. I am totally unconnected *in any way*, with the wharf, and cannot possibly be affected by any of its regulations.

I am, Sir,
Your obedient Servant,
ROGER SWIRE.

Spring Garden, 29th April, 1835

* Enclosed in the foregoing.

(COPY.)

My dear Sir,

I have received your note, and beg to say, that Sollas has promised me half a dozen empty barrels for you, to be delivered in a few days.

But if you like to take kegs, made on purpose to pack arrow root, holding about fifty pounds each, I can get you im-

mediately about fifty, at 5s. each, the cost price. With respects to Mrs. Silvera, I remain, my dear Sir, yours, truly,

HENRY STERNE.

To I. Silvera, Esq.
Buff Bay, 1st April, 1835.

In the *Watchman* of Saturday, the 9th of May, 1835, the following appeared as the Editorial Remarks.

KINGSTON, JAMAICA.

In our Paper of the 22nd ult. we made some remarks on the case, Sterne, v. Swire and others, which we perceive by the Herald, has induced Mr. Lemasney and Mr. Swire, the former of whom appeared to us the prime mover in the transaction, to come forward with explanations, and an apology for the parts they took in the same,

As a matter of course, Mr. Lemasney labours to make it appear that our statements are *exparte*, and even ventures so far as to assert, that they always are; this gratuitous and manifestly unfounded assertion, assuredly had its weight with those who can and will think for themselves on all matters of the kind now alluded to; when, considering Mr. Lemasney's explanatory or apologetical communication, and if we add to this, *the cautious manner in which he keeps out of view the important fact, that our comments, however unpleasant to him and the other gentlemen concerned, were made upon a case adjudicated in a court of justice, and upon the testimony of the witnesses then adduced, it will be seen that nothing that either Mr. Lemasney or Mr. Swire has said, in the least invalidates the remarks we made*, or is calculated to bear but the assertion that our statements were *exparte*, or *unfair*.

It is true Mr. Lemasney *now* endeavours to show "that Mr. Sterne was not in the *first instance*, the person aggrieved, but that he was the first person who commenced violating the laws of custom." Allowing this to be the fact, how does it affect the case as far as we are concerned? *Our comments were made upon the case as adjudicated in open court*, and no violation of the laws of custom on the part of Mr. Sterne, allowing that such did take place, *which did not appear in evidence at the trial*, can be adduced for the purpose of proving our statements *exparte;* had such evidence been adduced by the defendants, and no notice been taken of it by us, then we should have been chargeable, and justly, with having uttered exparte statements, but not otherwise; Mr. Lemasney ought to have known this.

But let us examine his explanations. Mr. Sterne agreed that Woodstock wharfage should be retained by Mr. Custos Bell until the end of the year, as a security, or additional security, for the rent of the wharf; at the expiration of three months he wished the arrangement done away with, and, as Mr. Lemasney would not consent, he compelled him to pay for the produce from Kildare Estate, contrary to the old rule of allowing it to be deducted from the rent of the wharf; *of course, from Mr. Lemasney's remarks, we are to understand that Sterne had entered into no agreement to allow of any such deduction, and consequently was at liberty to demand payment of the wharfage of Kildare produce, at the usual time; and this was perfectly reasonable, inasmuch as Mr. Lemasney had taken care to have the Woodstock account, as a security for his rent;* but let us look a little closer at this matter. Mr. Lemasney rents the wharf to Sterne; he takes security in the Woodstock account for the rent, and then wishes the renter to allow his account against the rentor, (Lemasney) to lay over for the purpose of paying in whole or part, that very rent for which another estate's wharf account has been impounded; *and, because Mr. Sterne would not submit, to what appears on Mr. Lemasney's own shewing to be unreasonable, he exhibited a charge of non-compliance with the wharfage act against him, and had him fined twenty five pounds, and costs.*

With regard to the violation of the custom, alleged against Mr. Sterne, and urged by Mr. Lemasney, as justifying his conduct, we certainly must say it does nothing of the kind. Mr. Sterne having done wrong, is no reason why Mr. Lemasney should do the same; besides. there is no analogy between the two cases. Sterne's refusal to allow the Kildare's account to lay over as well as the Woodstock's, could not, in any degree, injure, although it might possibly have inconvenienced Mr. Lemasney; whilst the latter's conduct, in demanding the weights of sugars, *for the first time after they had been shipped, and there was no possibility of their being weighed, or the demand being complied with, and proceeding the very next day to complain to the magistrates for the refusal, was, to say the least of it, malicions, if not dishonest.* Mr. Lemasney, doubtless, considers he was right to revenge himself in the manner he did; *we think him as culpable, as if he had met Sterne on the road, and robbed him of* £25, giving it away to the first person he afterwards met. *Indeed, the latter course would have been more manly , for Sterne would have been allowed an opportunity of defending himself and property by brute force.*

But we should like to know, for Mr. Lemasney does not say that it was, whether it was understood by Mr. Sterne, when

agreeing about the wharf, that the Kildare's wharfage was to be allowed to be deducted from the rent, and whether he consented? if he did, then Mr. Sterne has been guilty of a breach of promise, and is consequently obvious to censure; if it was not mentioned, and he did not agree, then he has committed no breach of the rule in question.

Mr. Lemasney further urges in justification of his conduct, that Mr. Sterne closed the wharf, and compelled him to ship at Annotta Bay. This, we are sorry to say, is a miserable attempt at justification, for we recollect perfectly well its coming out in the course of the trial, that Mr. Sterne closed the wharf after Mr. Lemasney had had him fined; and in order to save himself from ruin. Had Mr. Lemasney not pursed the course he did, Mr. Sterne never would have closed the wharf, therefore Mr. L. has only himself to blame for being obliged to ship at Annotta Bay. *Had he continued the wharf, Mr. Lemasney, or any other person disposed to injure him, might have had him fined £25 every day, until he could get the necessary weights and measures from Kingston or elsewhere.* This, to say the least of it, is a poor sample of Mr. Lemasney's sense of justice.

Mr. Lemasney states, that we said there were neither weights nor scales. He should have added, "or means of weighing sugar." Before, however, he charged us with falsehood, he should have said whether there are weights and scales sufficient, or capable of weighing a hogshead of sugar. If there are not, *then he, and not us, has asserted what is false.* There may be scales, and, peradventure, the remains of what were weights at one time, but that there are not the means of weighing hogsheads, we still assert. *Subterfuge and avoidance may be necessary for Mr. Lemasney, they are not for us,* and it is to be regretted, that in reply to our remarks, *that gentleman did not pay a little more regard to truth and candour.* His letter only tends to confirm the opinion we had formed *of the injustice and impropriety of his conduct towards Mr. Sterne.*

*** NOTE.

It will be seen, by my addressing the accompanying letter to the Editor of the *Jamaica Herald*, that I intended it for insertion in that paper, but he, being a party man, and a warm friend to the St. George's Daniels, refused to give it a place in his columns. I then made application to the Editor of that widely-circulated paper, *The Dispatch*, but this gentleman required me first to pay him the pretty little sum of six doubloons, or £32. This I refused to do, and consequently had recourse again to the ONLY TRULY INDEPENDENT PAPER, THE

WATCHMAN, and in the columns of which the reader will find it as follows, under date Wednesday, 13th May, 1835:—

To the Editor of the Jamaica Herald.

Sir,

Observing the publication in the columns of your last Friday's paper, of a letter signed "M. Fitzgerald Lemasney, wherein *that person* has thought proper (*very unwisely, I think,*) to bring my name before the public, *I consider you will be in justice bound to admit my reply thereto.* As such I have prepared the following, and shall feel thankful by your admitting it into your columns.

HENRY STERNE.

Buff Bay, 4th May, 1835.

To Mr. M. Fitzgerald Lemasney.

Sir,

I perused a letter to which your name is attached, published in the *Jamaica Herald.* It is necessary for me to correct you in many points which you have advanced; *some in your own supposed justification of conduct; others, on the part of the "St. George's Daniels"*—who held judgment on me with the same good will, it would appear, Shylock possessed against Antonio.

It will not serve my purpose merely to state, in your language, which I certainly must give you all the credit for, particularly as to its chastity of composition, elegance of diction, and its beautifully turned periods, that the allegations you have advanced in exculpation of your conduct "IS FALSE." *No, Sir, I will not call you by those harsh names, which I think you richly merit, but may, in all probability, prove them most satisfactorily, before I conclude this address,* for nothing can be more unpleasant to my feelings than to give the LIE direct to any man's assertions, and you will then see in what a labyrinth a man involves himself, *who labours to maintain falsehood by argument.* I should have thought, Sir, you possessed some little respect for the public, and would not lay before them *a tissue of unfounded accusations, knowing them to be such;* but trusting, no doubt, to my silence, *which you naturally expected would be the greatest contempt I could treat you with.* But I too well know, had I adopted this mode of defence, it would have been construed into a different cause. I therefore hesitate not to reply to you, *and show you up to public animadversion.* YOU, *being the* INFORMER *in these cases,* in which I have been involved, you have deprived me of the pleasure I should have

felt, publicly to have exposed the conduct of the clique, when the feelings of the country shall have been recorded in the ensuing August Assizes, against the very Magistrates you now defend, and have forced me into the arena of public discussion, with or without my own good will. As such is the case, I promise that you shall not go unscathed, but shall feel the sting of truth, which will teach you to know it is not to be trifled with, as shuttlecocks are, in the hands of school-boys.

Speaking of my agreement with the Honourable Mr. Bell, allow me to make some comments on this, particularly as I would wish to disabuse the public mind of any impression your letter has led them to entertain. If your memory can at all serve you, I think the following was your proposal and agreement. On your notice of intention to use the public wharf after a certain date as a private one, I applied to you to be a tenant of the same. Your reply was, certainly, provided I would allow the Woodstock wharfage to be retained by yourself and Mr. Bell, as a security for the rent, it being a Chancery property, and the easiest mode of obtaining a security. I immediately acquiesced in this, and now call on every gentleman then present, to say if such was not the case? I received possession of the wharf, and the next day it was found necessary for me to give securities in person for the payment, which I immediately complied with. Now, I ask, how could you expect (that is with reason) I should give security by letter, and the same again by Woodstock wharfage?—a thing unprecedented as it is unjust. I granted your request, and certainly had no right to suppose that you had a legitimate claim to Woodstock wharfage. Some little time after this, I became obnoxious to the Honourable Mr. Bell, and had the moral courage to demand my wharf account, and, as you say, "a violation of custom." This was no matter of yours; but, to my surprise, I was reminded of my agreement to allow him, Mr. Bell, to remain with the wharfage, for the security of Kildare rent. I saw that Mr. Bell was unaware of the demand you had made for security by letter, and therefore wrote you, feeling as I did, annoyed *at your mean attempt of obtaining double securityship*, though you did it so ingeniously, as could not possibly lead me to suspect your design.

The following extract of a letter, transmitted to you, will be conclusive to satisfy the public mind on that head.

Extract of a Letter to Mr. Lemasney, dated November 28, 1834.

"*I think you are more to blame than Mr. Bell It was your duty, on taking the written security of Mr. Burgess, to have exonerated Mr. Bell from his promise. I conceive, therefore,*

that I am bound in honour to have him exonerated for the past. I have, therefore, to propose as follows:—1st. *That you shall exonerate Mr. Bell from his promise, and thereby allow him to make an amicable settlement with me; or 2nd. That you shall receive the quarter's wharfage now due me by Mr. Bell, sending me a receipt as so much received, on account of the wharf rent.*

"*If you decide on the latter, I beg you will take this as a notice, that you must keep yourself provided with cash for the Kildare wharfage, for I shall neither ship or deliver till the wharfage be first paid.*"

There was no underhand acting in this, Sir. I told you my intention, and required you to be prepared to meet the same. *You made the choice of the latter proposal, and I carried my determination into execution, by compelling you to pay for the wharfage as it was required.* This continued only three weeks, when you commenced to ship sugars; *and then the well concocted plan of yours to entrap me for the gratification of your Daniels—they who so wisely* (as they were then led to believe) *had hold of me by the law, the consequence of which has been recorded by the opinion of an impartial judge* (who, indeed, acted the part of "Portio") *and an honest Jury, to the tune of £51 damages, and full costs out of purse.*

I blush for you, Sir, to think that you should, with all the *nonchalance* possible, assert that the *Watchman* Editor says, there were neither weights nor scales on the wharf. Here you stop, Sir; but I will not allow you this shelter you have erected for yourself. *The Watchman continues to say, weights and scales to weigh sugar*; and you refer the public to my brother-in-law, to know if there are not weights and scales. Yes, Sir, there are; but the question arises, if you require him now to weigh a hogshead of sugar, and which you well knew I was unable to accomplish, can he do it; no, he cannot, his scales will not hold it; and if it does, the suspending chains will not bear one, and he has not one-8th of the weights necessary for the purpose. The inhabitants of the Bay will attest this assertion, and so will the present wharfinger, *therefore this allegation you hold out, that there was a sufficiency of weights to weigh a hogshead of sugar, I prove it beyond doubt to be foreign from fact.* In answer to your defence of the Magistrates—in justice to your friends, let your future labours be confined to the care of your own reputation; for truly may I declare, "God protect me from doing any thing that may require such defence; or to deserve such friendship." Had you acted with any, the slightest, discretion, you would have endeavoured to keep the matter from the eye of the public, as far as newspaper publicity goes; but

you certainly have shown yourself off, in endeavouring to be the champion of men who did all in their power to work my ruin. I blame you not for this apparent anxiety to remove any impression which the independent remarks of the *Watchman* might create on the minds of enlightened men. You were the first to lead them into error; you, therefore, do no more than you ought to do *More—you should* REFUND THAT OPPRESSIVE AND ILLEGAL FINE OF £25 AND COSTS, WHICH YOU HAVE SO SNUGLY POCKETED. REFUND IT, SIR, FOR YOU WELL KNEW THEY WERE DETERMINED TO FINE, ERE I WAS BROUGHT TO TRIAL; *but you have all been taught to know that "cunning, let it be ever so well wrought, will not conduct a man honourably through life;* like bad money, it may be current for a time, but it will soon be cried down." You may now, Sir, change the position, and use the word oppression for that of cunning. *Speaking of the* "HIGH ESTIMATION" THE MAGISTRATES STAND IN, "*as Magistrates,*" I must relate an anecdote I heard a well-known gentleman adduce some time back. *Lord Edinborough was told by a witness that he always knew Mr. Thurtell* (the well-known murderer) *as a respectable character. Respectable, forsooth, says my Lord, and standing at the bar for so heinous a crime—what makes you think so? Why, says the witness, I have always seen him drive his curricle and pair of horses.* So he was considered respectable for this. *Thus, Sir, you can truly assert the magistrates respectability; and if oppressive conduct on their part is to raise them in the estimation of the public, they may well boast of their high standing, for this disgraceful propensity.* I have, however, as far as I have gone, proved to them that they shall not continue in the track they have so long trodden unmolested. *I have disturbed their nest, and leave you, Sir, to lull them to rest.*

Now certainly possess an elevated idea of your natural powers, to be able to censure the Lawyers who had the management of the magistrates' defence. Men who have for years been known for their legal judgment and honourable conduct, to be told by you, Sir, who possess as much judgment in law *as your valet de chambre, if you possess one,* that they did not act as they ought to have done, *and as you directed.* Really, Sir, *your vanity is great. Had you boasted of your powers in* JOCKEYSHIP, *or in the art of* RUBBING DOWN A HORSE *after a a day's journey, I then might be inclined to pay some respect to your opinion, knowing as I do the length of time* YOU LABOURED AT THIS IN YOUR OWN DEAR COUNTRY, But to talk of law, is really as vain as the viper attempting to bite the file. You cannot succeed, so abandon this idea without further ado.

You have no right to complain of my reply through the same medium you have adopted ; *I did not hold myself responsible for any Editorial Remarks, emanating from the Editors of public journals*, but I feel myself called upon to expose YOUR IGNORANCE, *blended with* PRESUMPTION, by which the honest and independent remarks of the WATCHMAN will not be viewed with a jaundiced eye, and which shall remain uncontradicted.

For the present, allow me Sir, to take my leave of you, and in the words of an eminent author, I "leave it to the publick to determine whether your vindication of your friends, has been as able and judicious, as perhaps it was well intended," and you, I think, may be satisfied with the warm acknowledgements they already owe you, for making them the principal figure in a piece, in which, but for your amicable assistance, they might have passed without particular notice or distinction, and not have been dragged through that ordeal they have of late had cause to detest.

HENRY STERNE.

P.S. Since writing the foregoing, and coming to town, I have seen a letter in the JAMAICA HERALD *of Tuesday last, signed* ROGER SWIRE, *purporting to shew forth a statement of facts, in contradiction of evidence adduced by witnesses in the cause of* STERNE, *v.* SWIRE AND OTHERS, *tried last Court.*

I take leave to say, that the letter in question is throughout foreign from fact, and as Messrs. Swire and others are so indignant at the conduct of their Counsel in their late trial, and moreover, have, by their own illegal and oppressive conduct, in making a second levy, even after receiving my action for the first, placed it in my power of sending them another action; I shall do so, and thereby give them an opportunity of substantiating such facts in open Court.

Having given the contradiction direct to the whole letter, I cannot single out either point for explanation, but to account for my note as addressed to Mr. Silvera, I simply say, that it was about the first I ever wrote in my life, and I solemnly

assert, that to the best of my recollection, Mr. Silvera was never under my roof in his life, and that the first and only time I was ever under Mr. Silvera's roof, (except someonce or twice about four or five years ago, when he kept a store in Kingston) was a day or two before the date of the note in question, and the cause of my then being there, was to subpœna him on the trial, Sterne, v. Swire and others; 'tis true I have frequently met him casually, as I have done others, but there has never been an intimacy between us, we have never had any dealings or money transactions of any kind whatsoever together, to that date *therefore Mr. Silvera's assertion is correct.*

The note in question was occasioned by a request of his to me at the time of my subpœnaing him, that I would procure him some empty barrels to ship off his crop of Arrow Root; *my friendly style of addressing him, was owing to the very independent manner I had heard he had declaimed against my oppressors, and the oppressions which he had himself witnessed was practised against me.*

This independence on his part, unsolicited by me, endeared him in my estimation, and I should have been ill-deserving of such, had I not felt it.

I could have brought forward many other respectable witnesses to substantiate the evidence already before the public, and much more, but the expence of doing so deterred me. IT SHALL NOT DO SO HOWEVER IN THE NEXT TRIAL.

HENRY STERNE.

FRIDAY, 8th May, 1835.

*** In the JAMAICA HERALD, of Thursday, the 14th of May, 1835—as also in the WATCHMAN, of Wednesday, the 20th May, 1835, will be found the following letter from M. M. Sollas, Esq., in answer to Mr. Roger Swire's most uncalled-for attack on my witnesses' character:—

To the Editor of the Jamaica Herald.

Sir,

You have given publicity to a letter signed "Roger Swire," in your paper of the 5th instant. *Some parts of this letter tends to impugn my evidence, given before a court and jury of my country. I therefore feel it my duty to reply thereto—and consider you are in honour bound to give my reply publicity through the same channel, in exculpation of my feelings, which it is easy to suppose must be injured, by the uncalled for attacks thereon.*

I shall hardly think it necessary to urge this as a right. It

is well known, the only means in this country, as well as others for correcting public injuries, are an *expose* of such injury in the public diurnals of the day. I am an advocate of this measure, as is well known: but it is a duty incumbent on Editors, if they lend themselves to party accusations, to be strictly just, by giving the accused the same means of redress. After this, they might either disclaim entering further in the matter or not; but you, Sir, will allow that, to be accused and be deprived of the only means of redress, is an evil which certainly should not be encouraged.

I feel it necessary to say these few words, previous to my reply to the letter alluded to, as I am led to suppose you might feel some hesitation in allowing your paper to be the channel of unnecessary disputes and uncalled-for accusations. You will no doubt, Sir, see the propriety of my answer, and do me that justice I require, at same time I must apologise for the length of my communication, but which is not more than is necessary.

I am, Sir, respectfully,

Your obedient Servant,

M. M. SOLLAS.

TO ROGER SWIRE, ESQUIRE,

Sir,

"*Disappointed ambition—resentment for defeated hopes—and desire of revenge, assume but too often the appearance of public spirit.*" *In this, Sir, may be found the true reason that prompted you so unhesitatingly to give your name to the public, attached to a letter you intend as an explanation for your conduct, so wisely reprobated by his Honor the Chief, in the last Assize Court. Had you consulted that necessary prudence, which, by your letter, you would have the public believe actuated you through the trial,* "LEMASNEY, *V.* STERNE," *you would not, Sir, have compelled me to appear in the columns of a public newspaper. You have dragged me through the arena discussion—and, so armed am I, in conscious innocence, that your accusations shall be replied to, in manner and form, as I am satisfied will be the means ef teaching you the impropriety of advancing arguments in opposition to truth, unless you are strongly armed with undoubted proof. Know, Sir,*

"The man in conscious virtue bold,"
Who dares his secret purpose hold,
Unshaken hears the crowd's tumultuous cries,
And the impetuous tyrant's angry brow defies;
Let Jove's dread arm with thunders rend the spheres,
Beneath the crush of worlds, *undaunted he appears.*"

I shall now proceed to act the part of an anatomist, which your kindness has led me to practice; and you may rest assured, calling to my aid all the forbearance I can—well-knowing *your stand and respectability among your parishioners*—I shall so digest your letter, as will cost you some trouble to reconcile the truth to your mind, for you may be satisfied my reply shall contain none of that:

> "Tickling spice, the pungent seasoning,
> Which makes the motley dish of monstrous scraps
> So pleasing to the taste."—FLATTERY.

No, Sir! it shall consist of "*truth, which needs no ornament*," and, in my opinion, "*what she borrows of the pencil is deformity.*"

1st. Whatever the "*opinion of the Spectator*," might have been as to your very great forbearance in the trial I had occasion to give my evidence on—I, who was a silent spectator, beg to notice that which I had not an opportunity of doing as a witness, *that the confused state of the court*, by the manner in which they broke up, *was as strictly true, as Anderson and Silvera proved;* and they might, with propriety, have added, *it savoured more the seeming formality of justice, practised by the Spaniards in ancient time, than a British Court of Justice*, in the enlightened age we now live.

2nd. *If the master of the drogger* "was heard through his evidence," *the recorded copy of the proceedings, taken down verbatim, by the Deputy Clerk of the Peace, to obtain which Mr. Sterne was made to pay fifty shillings, leads to a different conclusion*,(*see page* 71) *for while he was going on with his testimony; he was stopped short, and Mr. Sterne fined, in defiance of his request to hear at length the master of the Drogger, and his clerk, who was in attendance*,—thus far for the regularity, and great "*forbearance evinced on the occasion by you, Sir.*

3rd. How gravely have you advanced the proof of your having no "*improper feeling towards Mr. Sterne*, by calling on him to produce his books, and, if it should appear he had weighed the hogsheads of sugar, you would have *dismissed* the case." Pray, Sir, did you not know Mr. Sterne had *not* complied with the order of weighing the sugars *after* they were shipped? I am sure you did. Then, for what purpose did you demand the wharf books? I answer, as proof *against himself;* this certainly is one way of offering your leniency, another of *practising it*. Did not Mr. Sterne hold a note of the 6th January, from Mr. Lemasney *ordering the sugars to be shipped*, and when this order was complied with, down came another one, demanding the

weights of the sugars *last shipped*. This, Sir, *is so curious a mode of advancing explanation, that I shrink from further comments.*

4th. *And so, because Sterne felt himself obligated to Mr. Silvera, for the manly expressions of his feeling, which he had unhesitatingly given utterance to, immediately after the trial, showing his disgust at the apparent manner of administering justice in the parish in which he is a proprietor;* and for which reason Sterne writes him, "*My dear Sir, and yours truly.*" He, Silvera, is to be taxed with having spoken *falsely!!* let me pray you, for your own sake, to be more guarded when next you come forward to the public, holding up any man to ridicule, for it must certainly rebound on yourself with double force.

5th. And now, Sir, I come to your fifth observation. You must certainly expect me to enter into some defence or explanation, and, no doubt, when you sent your letter for publicity, you were prepared for a reply. I must, therefore, do so, and hope you will read the same with as much mildness, as I did your endeavours to show me up to ridicule, *for speaking, as you insinuate, in favour of Sterne, at the expense of my character, whilst under the sanctity of an oath—an oath which I feel as tenacious of violating, as you* (PERHAPS) *may with propriety be indignant at even being suspected of abusing.* I felt calmly at your endeavours to annoy my feelings, Sir; because I knew I should so reply to you as would make *galled jade wince.* Did you hear my evidence before that honourable court and jury, of the 15th ultimo? I am aware you did not—you were not present, and for which reason you should have been guarded how far you allowed insinuations to escape you, which can be so easily disproved. *I go to the facts.* I did not swear that "Sterne *never* disputed the decisions of the Magistrates. If you will take the trouble to look to the report of the trial in the *Kingston Chronicle* of the 15th ultimo, and the *Watchman* of the 18th of the same month, you will therein see, I was made to say, that which I *really did*, "that *Sterne very often questioned the legality of the Magistrate's opinion—and had good reason for so doing.*" Now, Mr. Swire, do you perceive how your endeavours to abuse my character have been misapplied? *Do you see how honestly I answered, and how unhesitatingly I followed that answer by my* OPINION *of the justness of Sterne's opposition. Look to it, Sir, and blush for the prejudices you entertain against me, for uttering truth at your expense;* read, Sir, learn, and inwardly digest. *And was it not enough for Sterne to question Magisterial opinions when he was turned out* (by force of arms) *of the Court-house, because he stood up in defence of his apprentice, and would not see him trampled on, for the gratification of private pique? Was it not sufficient to*

create his anger and resentment, when he was threatened to be committed, because he was defending his property, which had been trespassed on? And against the individual guilty of this trespass, an indictment was preferred, and a true bill found by the Grand Jury; *were not these repeated displays of power quite sufficient to justify my opinion of Sterne's having "good reason to question the Magistrates' opinion?" Certainly it was; and I did not deem it necessary for me to keep it from the court and jury.* It is proper for me to inform you, *that when I am giving evidence under the sanctity of an oath, the dread of a* SUPREME BEING is always before my mind's eye, *not that dread of uttering truth which might create your ire. I think little of you, Sir, or your "stand in society," that my judgment should be biassed;* and it is only to be regretted that you, who hold a commission as a local Magistrate, could descend from that high office to that of Censor-general of the parish of St. George! As far, therefore, as this charge goes, I think I have satisfied you by the mere report of the proceedings, by men who certainly had little interest in gainsaying my evidence, that the allegations you advanced against me are not in strict accordance with the evidence I gave; but, allowing that it was *reported*, as you state, am I responsible for Editorial comments, or erroneous reports of the trial? I am sure I am not. *Yet, I am happy to say, I confirm every word therein contained.* You should have heard my evidence yourself, ere you attempted censure.

You further proceed with your fifth charge, to say "he (Sollas) also swore that the furniture was not bought in for Sterne; now I have evidence that the constable said this was the case at the time of sale, and enquired if the sale was legal." I have not the opportunity, Sir, of applying to the evidence you speak of, not knowing this person, whose name you have purposely withheld; but to the constable himself I have applied, to know if this statement was correct. The reply is such as satisfies me, that my assertion cannot be gainsayed; for he denies ever uttering such words; *and, therefore, Mr. Swire, your proof is as lame as the defence you could have adduced in the case of "Sterne v. Swire, and others."* Annexed is the constable's note, which I think is better proof of the unfoundedness of your "evidences'" assertion, than Silvera's letter *from* Sterne is, of their intimacy. Is it because Mr. Constable, Mr. Tom, and Mr. Harry, should say of Mr. Swire that which would annoy the organs of his ear, were I to express them, that belief is to be placed in it—and your character tortured—your feelings outraged, and your veracity doubted, merely because a constable, or an individual should say of you that which is contrary to truth? The fallacy of this is too clearly proved; *and I am sure you will regret bringing before the public, matters which would have*

rested in oblivion, did you not rashly reap them up, for a gratification which I have not allowed you to enjoy at my expense.

It is the first time I have had cause to reply to any individual in a public newspaper, and hope it may be the last; but, whenever I am called upon to defend myself against general assertions or abuse, however much I feel wanting in the task—yet, possessing such an ingredient as truth, I shall never shrink from it. You will also find it most true, that those who are so scrupulous of hearing the words of truth, have more to "fear from the treachery of their own passions, than from any malevolence of mine."

I remain, Sir,
Your's, obediently,
M. M. SOLLAS.

(*Extract of the Constable's Note, alluded to in my letter.*)

M. M. SOLLAS, ESQ.

Sir,

In reply to your query, I beg to observe, that I do not remember having ever used the expressions said by Mr. Swire in his letter; and which he asserts can be proved by evidence, that you purchased in the furniture for Mr. Sterne.

I am, Sir,
Your obedient servant,
EDWARD C. BURGESS.

*** Here the Reader's attention is called to rest for a moment to these facts;—THAT it was IN CONSEQUENCE of the aforewritten letters, passing through the public prints, that I determined to follow up the second illegal levy, by a second action, and not from any malicious motive, as many of the Kingstonians imagine, who probably had never heard or read of the foregoing letters.

I accordingly gave my solicitors instructions, and they prepared a case for Counsellor Watkis, who framed the actions, which were immediately sent out for the June Grand Court, against the three Magistrates, Roger Swire, Robert Baugh, and Frederic White, which ran as follows.

SECOND ACTION.

In the Supreme Court.

June Term—1835.

STERNE, HENRY, *V.* SWIRE, AND OTHERS.

Surrey, to Wit. } HENRY STERNE, Esquire, the Plaintiff in this Suit, by Edward Mowat, his Attorney, complains of ROGER SWIRE, FREDERIC WHITE, and ROBERT BAUGH, Esquires, (the Defendants in this Suit) of a plea of trespass—for that the said Defendants heretofore, *to wit., on the Twenty-second day of January*, in the Year of our Lord, One Thousand, Eight Hundred and Thirty-five, with force and arms, in the parish of St. George, in the County of Surrey, seized, took, and carried away certain goods and chattels, to wit.—*Ten mahogany sideboards, of the said plaintiff, of great value, to wit.—of the value of One Hundred Pounds*, and converted and disposed thereof to their own use, and other wrongs, to the said plaintiff, then and there did, against the peace of our Lord the King, and to the damage of the said plaintiff of one hundred pounds, *and therefore he brings this suit.*

EDWARD C. MOWAT,
Plaintiff's Attorney.

Any person reading the foregoing letters of ROGER SWIRE and M. F. G. LEMASNEY, *would have thought that this second action was just the thing these magistrates desired, as they would now have an opportunity of clearing up their character in open Court.* BUT NO; they had no sooner got the actions, than they became alarmed, and sat to work devising plans, to prevent their being brought forward—they instructed their Solicitors and Counsel to *enter pleas of a former recovery, thereby thinking at once to quash the action.* The following were the pleas put on record by them in the June Grand Court:—

PLEAS.

AND the said ROGER, FREDERIC, and ROBERT, by Robert Davies, their Attorney, come and defend the force and injury, when, &c.; and say that they are not, nor is any or either of them guilty of the said supposed trespass, above laid to their charge, or any part thereof, in manner and form as the said plaintiff hath above complained against them, and of this the said Roger, Frederic, and Robert, put themselves upon the country, &c.

AND for a further plea in this behalf, the said ROGER, FREDERIC, and ROBERT, by leave of the Court here for this purpose, first had and obtained according to the form of the statute in such case made and provided, say, *that the said plaintiff ought not to have or maintain his aforesaid action thereof against them, the said Roger, Frederic, and Robert,* because they say that the said plaintiff heretofore—to wit., at the Supreme Court of Judicature, holden at the town of St. Jago de la Vega, in the County of Middlesex, in and for the said island, the second Monday in February, in the fifth year of the reign of our Lord the King, before the Honourable Sir Joshua Rowe, Knight, and his associates, assistant Judges of the same court, impleaded the said Roger, Frederic, and Robert, and one Robert Dunbar, and one Edward Cooper Burgess, in a certain plea of trespass for the committing of the very same supposed trespass in the said declaration abovementioned, whereupon this said Roger, Frederic, and Robert, and the said Robert Dunbar, and E. C. Burgess, afterwards, in the said term, pleaded, that they, the said Roger, Frederic, and Robert, and the said Robert Dunbar, and E. C. Burgess, were not, nor was any or either of them guilty of the said supposed trespass, and issue was thereupon joined on said plea between the said plaintiff and the said Roger, Frederic and Robert, and the said Robert Dunbar and Edward Cooper Burgess, and there upon, to wit, at the Assizes holden at the city of Kingston, in and for the county of Surry, on the second Monday in April, in the said fifth year of the reign of our said Lord the King, before the Honorable Sir Joshua Rowe, Knight, Chief Justice of the said Island, and Chief Judge of the said court, and his associates there. for the said county of Surry; the said issue came on to be tried, and was then and there tried in due course of law by a jury of the country, duly summoned, tried, chosen and sworn in that behalf between the said plaintiff and the said Roger, Frederic and Robert, and the said Robert Dunbar and Edward Cooper Burgess; which jury, upon the said trial, then and there upon their oaths, found that the said Robert Dunbar and Edward Cooper Burgess, were not, nor was either of them guilty of the said supposed trespass, in manner and form as the said plaintiff had in his said declaration in that behalf complained against them, *and that the said* ROGER, FREDERIC *and* ROBERT *were* GUILTY *of the said trespass, in the said declaration mentioned, in manner and form as the said plaintiff had in his said declaration in that behalf complained against them;* and that the said plaintiff had sustained damages by reason of the committing, by the said Roger, Frederic and Robert, of the said trespass, in the said declaration mentioned, to the sum of *Fifty-one pounds, current money of Jamaica, besides his costs and charges, by him about his suit in*

that behalf laid out, and for those costs and charges to nine pounds, seven shillings and sixpence halfpenny. *and it was therefore considered by the said court, that the said plaintiff should recover against the said Roger, Frederic and Robert, his said damages and costs, by the said jury upon the said trial assessed;* and that the said Roger, Frederic and Robert, should be in mercy, as by the record and proceedings still remaining in the said Supreme Court of judicature, at Saint Jago de la Vega aforesaid, more fully and at large appears, which said judgment still remains in full force and effect, not in the least reserved or made void; and this the said Roger, Frederic and Robert are ready to verify by the said record, wherefore they pray judgment, if the said plaintiff ought to have or maintain his aforesaid action thereof against them.

EDWARD PANTON, } *Defendant's Counsel.*
BOSWELL MIDDLETON }
ROBERT DAVIES, *Defendant's Attorney.*

To said pleas the following Replication was placed on record.

REPLICATION.

And the said plaintiff as to the said plea of the said defeddants by them first above pleaded, and whereof they have put themselves upon the country doth the like; and the said plaintiff, as to the said plea of the said defendants, by them lastly above pleaded, saith that he the said plaintiff, by reason of anything by the said defendants in that plea alledged, *ought not to be barred from having and maintaining his aforesaid action thereof against them the said defendants, because he saith that the said trespass. in the said declaration in this suit mentioned, was not the very same trespass as that in the said plea mentioned and for, and in respect whereof, the said judgment in the said plea mentioned, was recovered in manner and form as the said defendants have above in their said last plea alledged, and the said plaintiff prays may be enquired of by the country, &c.*

PRICE WATKIS,, *Plaintiff's Counsel.*
EDWARD C. MOWAT, *Plaintiff's Attorney.*

Matters remained thus until the *August Surry Assize Court* came round, when, most unfortunately for me, both of my COUNSEL, viz. PRICE WATKIS, Esquire, who conducted my first action, and settled this, as well as FITZHERBERT BATTY, Esquire, who was also employed on my behalf, were both very unwell and unable to attend the court, whereas both

of the counsel for the defendants who conducted their first defence were quite well and in attendance.

I was now told by my solicitors, that I must either employ two fresh COUNSEL, or submit to pay the costs of the defendants, and so put off the trial (besides my own costs, and witnesses expences, which were very heavy, considering I had ten witnesses brought from 40 to 60 miles.)

Accordingly my two briefs, *(which by the by, alone, have cost me forty odd pounds,)* were handed, one to each, Mr. ATTORNEY GENERAL, Daniel O'Reilly, Esquire, and Counsellor EDWARDS, and I must do them both the justice here to say, considering the short space of time they were in their hands before the trial commenced, *which was not more than forty-eight hours,)* they did me every justice; the ONLY POINT *upon which I can find fault with them, and that to be sure has turned out to be a very serious one,* is their not manfully standing their ground, against the arbitrary and savage display of power manifested by the Chief Judge, Sir JOSHUA ROWE, *who refused to allow them as my Counsel to interrogate the witnesses, as to the violent proceedings of the defendants against me, in the mock trial, Lemasney, v. Sterne, which was the origin of the present action.*

Mr. EDWARDS certainly did most strenuously insist upon the justice of my right, to fully sift and have out of the witnesses the full evidence of my cause of complaint, from the beginning, *(which was my main object of bringing this action before a jury of my country,)* but he was soon silenced, and seated, from the black looks and savage deportment of the Chief, who looked as if he could have swallowed the poor counsellor, for attempting to hold out, after he had once decided. ALAS FOR ME! *that I had neither* Mr. WATKIS *or* Mr. BATTY *then present, either one of them would have soon shewn His Honor law, as well as enforced my right to be fully heard through my witnesses.* Mr. WATKIS *would have thrown off the gown but what he would have seen his client righted.*

Mr. ATTORNEY GENERAL also, on leaving the court the first evening, *valiantly declared,* that from what he saw and heard, *particularly of the conduct of the Honourable Custos Bell,* one of my witnesses; *that on the next morning he should insist upon my right, "nay," he said, "I see you have been, and are an injured man, and I shall enforce my right as your counsel, to sift the whole matter out from the beginning,"* but poor man, the next day, he certainly did struggle hard for me, *but the Chief was obstinate, he looked black, black, black, and seemed as if he could have swallowed up both Mr. Attorney*

General, as well as Mr. Edwards; I must however give the trial as it proceeded.

FRIDAY, August 21, 1835.

On this day in the SURRY ASSIZES, this second action of mine listed in court as STERNE v. SWIRE & others, came on to be heard; the following composed the court and jury.

THE COURT.

Sir Joshua Rowe, Knight; Presiding Judge.

Assistant Judges—The Honourable **John Mais, Hector Mitchell,** and **Anthony Davis,** Esquires.

THE JURY.

1. Frederick M. French,	Port Royal,	Planter,
2. Christopher Francis,	St. Andrews,	Schoolmstr.
3 Thellamont Da Silva,	Kingston,	Retailer,
4. George Chevannes,	St. Andrews,	Planter,
5. Henry Forbes,	St. George's,	Planter,
6. James Dundas,	St. Andrews,	Planter,
7. Richard Blakely,	Kingston,	Watchmkr.
8. John R. Ayley,		Planter,
9. R. C. Belinfante,	Kingston,	Storekeepr.
10. Horatio Feurtado,	Kingston,	Planter,
11. William Humphreys,	Portland,	Planter,
12. F. W. Cole,		Planter.

Mr. ATTORNEY-GENERAL opened the case for the plantiff. He stated, that this was an action brought to recover compensation in damages, for a trespass committed on him by the Defendants, ROGER SWIRE, ROBERT BAUGH, and FREDERIC WHITE, *who had, in their character as Magistrates, most illegally and unjustifiably imposed a heavy fine, with costs, and had issued an illegal warrant, whereby certain valuable furniture had been distrained on and sold. That there had been two illegal levies made—and that one action had been tried at the last Assize Court, for the first levy, at which time the Defendants were found guilty, and a verdict passed against them, at the hands of the Jury, for the sum of £51.*

That his client, the plaintiff in this suit, had been very cruelly dealt with; and, notwithstanding that he had offered to drop all further proceedings against the Defendants, if they would recompense and make good to him the injury he had received at their hands; that, instead of their receiving such reasonable propositions, and making reparation. *They assailed and abused him through the public newspapers; and found fault with their counsel, and attorneys, for not having brought forward their witnesses in the last trial.*

That the plaintiff had been put to very considerable expense in bringing this case before them, but that he had now such a host of witnesses in Court as would he hoped, before he had closed his case, shew them such a scene of oppression as would cause them to give such a verdict, as would amply compensate the plaintiff in this case.

THOMAS M'BEAN was called up and sworn. He proved that he had served a notice on the Defendant's Solicitor, to produce the original warrant, under which the levy was made.

THE WARRANT was now put in evidence.

EDWARD C. BURGESS (*the constable who had executed the warrant, by making the two levies, and one of the parties who was actioned on account of the first levy*) was called up and sworn. He claimed his expenses, and received £8.

In answer to various questions put, he replied as follows: *I am a Constable of Saint George's, and am a brother-in-law of Mr. Sterne—I made a levy on him on the 12th January, under a warrant issued by the Magistrates on the 10th* (here the warrant was handed to him to be identified.) Identified the warrant, to be the same under which he made the levy. The signatures are those of the defendants. Took away a handsome new couch and dining-table under the first levy. *I made the second levy on the 22nd January. I first asked the Magistrates for a fresh warrant*; the defendants told me to make the second levy. They told me there was no occasion for a fresh warrant; the warrant was for £25 fine, and £5 costs, besides my own costs. *Took under the last levy a new mahogany sideboard.* The The couch and table in the first levy was purchased by Sollas. Sollas subsequently sold them to Sterne. *I sold the second levy for £10; I was induced from the low bids made for the sideboard to become the purchaser myself. I bought it for £10. I afterwards sold it to Sterne for £11. I paid the money. I paid Mr. Lemasney £25, Mr. Dunbar £5, and my own fees were £2 16s. 8d. The levy was worth more than the £10.* I appointed a vestry day for the sale, thinking they would sell to the greatest advantage. Mr. *Swire bid for the sideboard*; the furniture was certainly sacrificed; they were worth considerably more than they fetched. *I was present when the investigation was going on against Sterne; it took place on the 10th; Sterne's conduct and demeanour was quite respectful; he was exceedingly patient; the magistrates were very hasty; Mr. Swire's demeanour was very intemperate. Here,*

Mr. MIDDLETON arose, *and declared that his Honor could not allow any evidence to be adduced as regards the magistrates' conduct at the summary trial, that had already been*

before a court and jury; and insisted that the plaintiff must now confine himself entirely to the illegality or not of the secn d levy.

THE CHIEF *coincided. Certainly, Mr. Middleton, the conduct of the magistrates, be it what it may, at the summary proceeding, cannot now be questioned—that was a question in the first trial; at which time, I remember well, having passed a very severe censure upon them; therefore it cannot now be broug ht forward.*

Mr. MIDDLETON—*Certainly not, your honor; they have suffered already by a verdict for that error;* and I hope to shew by and by, that they have suffered for this matter altogether, and that the plaintiff had no right to bring on this present action.

THE CHIEF—*Very well, very well, Mr. Middleton. Proceed with your witness,* Mr. Attorney-General.

Mr. ATTORNEY GENERAL and Mr. EDWARDS *both rose.*

BE seated, Mr. EDWARDS, cried THE CHIEF.

YOUR *Honour, says Mr. EDWARDS—but*

THE CHIEF—*Be seated, Mr. Edwards;* proceed, Mr. Attorney General; *but remember we will not allow any thing of the summary trial to be questioned.*

Mr. ATTORNEY-GENERAL—*But I am sure your Honor will not act thus by my client. He is an injured man, and comes into this Honourable Court for redress; and his witnesses must be heard out on his behalf. We have a whole host of them here in Court, at an enormous expense, and they must beheard.*

THE CHIEF—*You must confine yourself entirely to the second levy; 'tis no use to bring any thing forward about the magistrates' conduct in the summary trial. We have decided, Mr. Attorney-General, so proceed with your witness.*

Mr. BURGESS'S examination was resumed. *I received notice of the first action on the 21st,* I had some conversation with Mr. Baugh, one of the defendants, on the subject of the action Sterne had sent out against the Magistrates, (and in which witness's name was included for having made the illegal levies as a constable), *Mr. Baugh replied, "well, we must employ Counsel I suppose," and then he told me to make the second levy, I spoke to Mr. Swire about the first action being sent out, he said he did not think the plaintiff could make any thing of it;* this was not the day the second levy was made, *the second levy was made after this;* I do not rightly recollect the ates, *but I applied to each and all of the magistrates, before*

I would make the second levy; I was frightened to act, having been myself served with an action on the first levy; THE CUSTOS, Mr. BELL, *was present when I applied to them about the second levy; I solicited them to bear me harmless, Mr. Bell said a further warrant was not required; I* was of opinion that the first levy would have covered the amount of the distress warrant; Mr. Sterne shewed me a bill of parcels that they cost him £48. Sollas purchased the first levy; Sollas sold them to Sterne, Sterne has since sold them to Mr. Forbes, one of the gentlemen composing the present jury; when I made the second levy, I am certain that the articles I first levied on, were not in Sterne's possession, I asked Mr. Hall, if he thought the sale was a good one, as I omitted to say, "*lawfully bought and sold,*" Mr. Hall said certainly it is a good sale, I was not on good terms with Sterne before I made the levy, I am now.

The examination of M. M. SOLLAS, Esq. Jun. was taken *debene-esse*, he having sailed for America; and his evidence was adduced so far as to identify the signature of the magistrates to the warrant.

The Honourable JOHN BELL was now called, and *he would not give his testimony, or be sworn, until his expenses were first paid;* THE COURT *awarded him seven pistoles, or £9. 6s. 8d. which was immediately paid by Mr. Sterne;* he was then sworn, *it was with much difficulty he could be persuaded to answer a single question;* grinning his teeth, and constantly referring to the Chief, to know if he was bound to answer such, his replies were as follows: knows that a levy was made on the plaintiff, under a warrant of the defendants, who are all magistrates of Saint George's; he might have had some conversation with them on the subject of Sterne's business, *but cannot recollect the substance of such conversation, if he had any; knows nothing of his knowledge;* Lemasney brought him an affidavit to swear him to, to ground proceedings on; *recollects nothing of having given his opinion to make the second levy, under the warrant; recollects nothing of the summary trial;* saw the magistrates, defendants, at the court-house that day; there was an election for vestrymen going on; *is quite certain he knew nothing of the summary trial that day; recollects nothing of Swire or White's ordering the second levy to be made;* thinks he saw the defendants seated at the table in the court house on the 10th, and the plaintiff, with Lemasney, and the deputy clerk of the peace was there, but knew nothing of what they were doing there; I cannot swear they were not engaged in some business; *I had no conversation with the defendants, they removed from the place they were sitting: I* did not know the trial was to take place that day.

The CHIEF here remarked that the court had been sitting that day, since 8 o'clock in the morning, (it was then near 5 o'clock, p.m.) and would now adjourn the court, and resume he trial in the morning.

The CHIEF then rose up, and said he would first say a word or two to the counsel at the bar, and the solicitor's in court *and with an aspect more like a wild bear with a sore head, than a human being)* he must beg to notice, that it was very improper in them to allow such a trial to come on so late in the day, when there was such a host of witnesses to be examined, and that he had noticed the solicitors who conducted the present case, had conducted most all the cases in court that week, and that he would now make it one of the rules of his court, that solicitors should only be allowed to bring on their cases by rotation; he did not see why one set of attorneys should be allowed to monopolize all the time of the court; gentlemen of the jury, continued his Honor, we dismiss you for this evening, but expect you to be in your seats by 9 o'clock to morrow morning.

Mr. MIDDLETON addressed his Honor the Chief, and stated, that as Counsel for the Defendants, he had to request, that his Honor would bring into Court with him in the morning, his note-book of last Court, containing the trial of Sterne *v.* Swire, and others

THE CHIEF—What is your object, Mr. Middleton.

Mr. MIDDLETON—*Why, your Honor, I intend to shew thereby, that evidence was given in the last trial of the second levy—and, consequently, we must non-suit the plaintiff.*

THE CHIEF—Very good, Mr. Middleton, we will bring our notes.

And now the Court broke up.

SATURDAY, 22nd AUGUST.

The Court being again opened this morning, and the Jury in their seats, the trial of Sterne *v* Swire and others, was resumed, after a short preface by the Attorney-General.

ROBERT HUTTON was called up and sworn. *Having claimed his expenses, the Chief awarded him eight pistoles, or* £10 13s. 4d., *which was immediately paid by Mr. Sterne.* His answers to several questions put were as follows: he was present at the sale of both levies; *is a cabinet-maker by trade; considers the sideboard last levied on to be well worth* £20; *heard Mr. Swire bid up for it at the sale; considers it sacrificed when sold for* £10; *heard Swire and White, both order the Constable to make the second levy; heard Custos Bell give his opinion that a second warrant was not required; but to make a second levy*

under the original one ; White said, levy, levy, till the fine and costs are all paid ; was present at the summary trial.

THE CHIEF *here called out—We told you yesterday, Mr. Attorney-General, that we would not allow the witnesses to be questioned about the summary trial.*

THE ATTORNEY-GENERAL—*But, your Honor, we must sift the witnesses ; they have a deal to prove ; it will ruin my client's cause if I do not.*

THE CHIEF—*The Court have decided ; we will not allow it.*

D. M. SOLLAS, Esq., sen.—Called up and sworn. *Demanded his expenses, ond was awarded* £10 13s. 4d, *and paid.* His answers were as follows :—Mr. Sterne rented Buff Bay wharf ; had no conversation with Swire, or White, after the levies ; *had a conversation previous to the first levy ; advised White as a friend not to sit on the summary trial, and not to meddle in the matter ; White laughed at me ; White said a magistrate can always get off under plea of an error of judgment ; was at the Court House on the 10th.*

THE CHIEF—*Now, really, Mr. Attorney-General, we will not allow those questions.*

Mr. ATTORNEY-GENERAL—*Why really, your Honor, it is picking my client's pockets to bring up witnesses at this enormous heavy expense, and then not to be allowed to examine them on the point.*

THE CHIEF—*We cannot help that. Have you any thing else to prove—have you any more witnesses.*

Mr. ATTORNEY-GENERAL—*Witnesses—and to prove. Why, your Honor, we have several more witnesses ; and they can all prove abundance, if you will but hear them.*

THE CHIEF—*We cannot hear them on the points alluded to.*

Mr. ATTORNEY-GENERAL—*Then our case is closed, we can do no more. Oh, yes, by the bye, there is Mr. Mowat.*

Mr. MOWAT, called up and sworn—*I am employed by Mr. Sterne, as his solicitor ; received instructions from him to issue an action upon the first levy ; was not aware at the time, of the second levy ; the action was served on the last day of summonsing ; Mr. Sterne offered to compromise under my advice, to purchase peace, by the payment, on the part of the defendants, of* £30, *the levy being illegal. The verdict in the former action was* £51 ; *Mr. Sterne's costs were more than that sum.*

CROSS-EXAMINED by Mr. Panton—Will not undertake to say that evidence was not given in the former action, as to the second levy; the offer of compromise was made just after the last trial.

DEFENCE.

Mr. MIDDLETON addressed the Jury for the Defendants.

An offer was here made to compromise by the plaintiff, on condition that the defendants should allow a verdict to pass against them for the value of the furniture levied on; but this was rejected by the defendants.

The JUDGE'S NOTES *of the former trial were now called for by Mr. Middleton, and, on being produced, were read in evidence*, to shew, that evidence had been given, not only as regards the first, but the second levy, which was eagerly seized hold of by the Defendants' Counsel. They ran as follows:—(*John E Anderson was the witness.*) *Witness imagined that the value of the goods taken under the first levy was about £40; the goods were sold for about £24 or £25; was present at the second levy after the sale of the first, under the same warrant; the goods taken under the second levy were worth about £16;* and this was all the notes taken down by his Honor respecting it. *But of Mr. Watkis's explaining to the Court and Jury, at the time, that the evidence of the second levy had nothing to do with the then action; his Honor had taken no notes—neither were there any notes taken down by his Honor, of his Honor's comments to the Jury, on that head*—at least his Honor did not now produce any in Court, (but if the reader will refer back to the first trial, page 99 & 104) he will find my own notes as taken down in Court, during that trial, fully on this point); *these notes were therefore handled by the Defendant's Counsel as conclusive against the plaintiff.*

ROBERT DUNBAR, the Deputy Clerk of the Peace for Saint George (*the ignorant Clerk of the Peace, as his Honor designated him in the first action*) was the only witness (OUT OF THAT VALIANT BAND OF RESPECTABLE HEROES,) *which Mr. Swire and Mr. Lemasney boasted of being able to produce, see their letters, page* 104, 109) called up on the part of the Defendants. His answers were—Sterne said if he could recover £500 damages against White, he would pursue him to any part of the world—Sterne has frequently annoyed the Magistrates, and has been exceedingly disrespectful.

Mr. PANTON now closed the case for the defendants in a very heated and violent speech. He designated the plaintiff as a troublesome and obnoxious individual, who had already received at the hands of a jury, ample recompense for the the unfortunate error in judgment committed by the defendants;

that the Jury had in evidence before them (by Mr. Dunbar) that the plaintiff was in the habit of assailing the Magistracy, and that he had brought this action forward for no other purpose than to make money; but he trusted and hoped that the Jury would think as he thought, viz.—*that the plaintiff had been already amply compensated, and so find a verdict for the defendants.*

Mr. ATTORNEY GENERAL now replied on the behalf of the plaintiff, *he represented the plaintiff as an injured man, who had been compelled at an enormous expense to bring this case before them; that they, the jury, themselves witnessed a part of it, witnessing the large sums, he had been compelled to pay to the different witnesses, before obtaining their testimony, and that such testimony was only partially given: that there were many others of his client's most respectable witnesses now in court; and who had been brought there at a vast expense, which had not appeared on the boards before them;* in consequence of the severe view his Honor the Chief Justice had taken of the case, and witheld their testimony from them, that he could not help telling them, the jury, that he thought it a very hard and cruel case for his client; *witness, gentlemen of the jury, continued the learned counsel, the conduct of the* HONOURABLE JOHN BELL, *Custos Rotulorum for the parish of St. George's, a gentleman so wealthy, and high in rank, he comes here before you, and enforces such a monstrous sum of money out of my client's pocket to pay his expenses, and then after all, gentlemen what was his testimony? why that he had forgotten all about it, or at least he had forgotten all in favor of my client, and remembered all against him;* but gentlemen, I could have produced such strong and convincing evidence, of the cruelty and injustice practiced by the defendants, and others enleagued with them against my client, *had his Honor the Chief not prevented me,* as would have astonished every gentleman in this court-house this day.

AND now, gentlemen of the jury, let me tell you in reply to my learned friend's arguments, that his Honor's notes of the last trial, is to be held by you as conclusive; that the jury had received such evidence, and awarded ample compensation for both levies,; as also in reply to the observations which fell from his Honor on that head; *gentlemen, neither myself, or Mr. Edwards, who are conducting this case for the plaintiff to-day were connected in the last trial, but my learned friends, Mr. Panton and Mr. Middleton were both, the counsel for the defendants in that case, and his Honor the Chief then presided, as he does now, and should certainly recollect every thing that transpired, he has told you that he recollected giving the*

defendants at that time a very severe reprimand for their conduct; but the rest he has forgotten. But, gentlemen, let me now tell you, and his Honor likewise, that his Honor could not have done his duty, if he had allowed such evidence. Nay, it was impossible, that it could have been received as evidence, for the very learned Counsel, who are now so anxious to make you believe that it was then received, would and must have arisen against it. HIS HONOR COULD NOT HAVE RECEIVED IT, BECAUSE THE ACTION THEN SENT OUT, ONLY CHARGED THEM WITH THE FIRST TRESPASS, THAT OF THE 12th JANUARY, *and the articles were therein specifically stated* (see page 95). *Now, our present action is for a trespass committed on my client's property, after the first action had gone out,* ON THE 22nd JANUARY, *on a handsome sideboard therein specifically stated, not a single word of which is stated in the first action.* Gentlemen, I hope you will well weigh all those serious facts, on the behalf of my client. Gentlemen, though some of you now sitting on this case might have heard me only two days since exerting myself against my present client, as I am now exerting myself in his favour, yet I do assure you, that something has come to my knowledge, since I last addressed this Court, when I was Counsel against him, which I assure you, gentlemen, causes me to form a very different opinion of him now, than I then entertained. I know him to possess honour, gentlemen, however obnoxious my learned friend has endeavoured to make him appear in your eyes; trusting, therefore, that you will, by your verdict, sufficiently remunerate him for the injuries he has sustained, and the heavy expenses he has been put to. I leave the case in your hands.

THE CHIEF JUSTICE, Sir JOSHUA ROWE, now summoned up the whole. *He reprobated the attack of Mr. Attorney General upon Mr. Bell,* and other witnesses for claiming their expenses, which the law allowed them to claim. That, with regard to the case itself as it stood before them, they were to be the Judges. *They must, however, discard from their minds the eloquent address of the learned Attorney-General, and look to the evidence and the facts adduced. The warrant only was illegal in respect of costs being included, which was entirely an error of judgment;* BECAUSE THERE IS NO EVIDENCE NOW GIVEN BEFORE YOU OF MALICIOUS FEELING; *that was a subject of former action.* The jury in the former action, no doubt, gave, as they considered, ample remuneration for both levies, and all injury sustained. *I am bound, therefore, now to tell you, that it will be necessary for you to take into consideration the fact, of the second levy being given in evidence, and decide accordingly.*

THE JURY retired, and were locked up for some hours. At length they appeared in Court, *finding for the defendants, with a recommendation that each party should pay their own* COSTS.

THE CHIEF said—*It was the business of the Court to decide, as regards the costs*, which they should attend to.

Thus closed the second trial.

My two trials against the St. George Magistrates (but (*more properly designated by Counsellor Watkis in the first trial of April*, 1835, *as the St. George's Daniels*), under the title of Sterne *v.* Swire and others, being now closed. *It is here needful for me to point out the very gross injustice of the Chief Justice, Sir Joshua Rowe, towards me in regard to these trials*, before I proceed further with this work, and the trials of Special Justice White.

FIRST THEN. It is necessary to state, that, previous to February Grand Court, 1835, the party in a suit at law, either as plaintiff or defendant. who were cast by the verdict of a Jury, were saddled with the taxed costs of the court, which varied from the nature of the actions, from £5 to £20, but which costs were exclusively the fees of the Chief Justice, and the various officers of the Court—quite distinct—and having nothing whatever to do with the parties' costs out of purse, such as their Solicitor's bill, witnesses' expenses, &c. &c.—this portion of costs each party had invariably to bear himself, whether victorious or not.

BUT, *in the February Grand Court of* 1835, *Sir Joshua Rowe, made it a standing rule from thenceforward*, that the unsuccessful party in any suits *tried* in his Courts, *should not only pay the ordinary taxed costs of the Court, but likewise the further full costs out of purse of the victor, viz.—his solicitor's bill and witnesses expenses.*

The following were the reasons given by the Chief, in open Court, as ST. JAGO DE LA VAGO, and copied into all the Jamaica newspapers, *during the sitting of the Supreme Court of February*, 1835.

WOODGATE *V.* MALABRE.

In this case a rule was obtained in the last Supreme Court, (*viz.*, *October.* 1834) calling on the plaintiff to shew cause why he should not pay the defendant the cost of non-suit, to which rule, cause has been shewn. The principal point involved in this discussion is, whether the English acts, giving the Courts of Westminster Hall the power of granting costs are in force in this island. Two other points are also raised, viz.—that, admit-

ting those acts to be in force, they are controuled by the provisions of an Island Act, passed in the 10th Anne, which is restrictive of the power given by the English acts, that the 24th Geo. II., c. 12; also an Island Act, shews this court cannot give costs except in the cases therein specified, and this not being one of them, the rule must be discharged. The Court were of opinion, after a most careful investigation of the records of the same, and an attentive consideration of the 10th Anne, and the 24th Geo. II, that the English statutes are in force, and are not controuled by the island acts, and that consequently they have the same power of granting costs as the judges of the superior courts in England possess.

Any one at all, said the Chief, acquainted with the history of this island, is aware, that one of the principal struggles of its inhabitants was to obtain the benefits of the laws of England, and that the differences on this subject were put an end to by the 1st Geo. II., which declares, "that all such statutes and laws of England as at any time have been esteemed, introduced, used, accepted, or received as laws in this island, shall and are thereby declared to be and continue laws of his Majesty's island of Jamaica for ever.

If, therefore, it can be shewn that the statutes of England relating to costs were acted upon in this island before the 1st Geo. II., and are not controuled by any subsequent act, there can be no doubt we can give costs according to our discretion.

In most of the cases which have come before the court on this act, we have been obliged to infer that the laws of England were acted on in this island previously to its passing, from the fact, as far as any fresh evidence could be procured, of their having been acted on since that period, but in this case we are left in no doubt, nor driven to any presumption, for by the records in the office in the Clerk of the Court, which I have most carefully examined, we find that from the earliest period, even before the 10th Anne, costs were always given, and, when taxed formed part of the judgment. In the absence of this positive evidence we might fairly have inferred, that, as the Elizabeth, c. 2., giving costs in cases of discontinuance, and the 8th and 9th W. III., cap. 11, giving them in demurrers, are clearly acted on here, that the other statutes of England relating to costs must also be considered in force; but even this inference we are not called on to draw.

Now, as there are not, and never were, any acts of the Island giving this Court the power generally of awarding costs, and without such they could not be given, *either in favour of the plaintiff or defendant*, it is clear that the judges before the 1st Geo. II. acted on the authority of the English statutes, and con-

sequently they must now be in force here, unless controuled by some subsequent act of this island.

And this brings us to the consideration of the second point, viz. whether the 10th Anne limits the power, we are clearly of opinion the court possessed before the passing of that act; we think that that act does not, as it in no way bears on this question. The object of that law was to fix the fees of certain public officers, and by the 33rd section, the fees of lawyers for the performance of certain portions of their professional duties is fixed, and supposing there were no subsequent act increasing those fees, it is clear that the officers of the court in the taxation of bills of costs, either between party and party, or attorney and client, could not allow more than this act directs, for the business specified by the 33rd section; *by the counsel who shewed cause against this rule, it was contended that we cannot award any costs beyond the fees fixed by the 33rd section*, and that those fees form the taxed costs now allowed, and the practice of the officers of the clerk of the court was pressed upon us, as shewing that nothing beyond those fees having been allowed since the 10th Anne, our predecessors considered themselves bound by that act.

If the facts, as stated were true, we should hesitate before we gave a decision, which would alter a practice of such long standing, as I think we should have been bound to consider that such practice was the interpretation given to this act; but in this view of this case, the early records, and the present practice, corresponding as it does with that of by gone days, as evidenced by those records, clear away all the difficulty; for I find that previously to the 10th Anne, the costs varied from £1 13s. 4d. to £23 0s. 11½d. and since the passing of that act, from £1. 13s. 4d. to £35. clearly shewing that in the taxation of costs as between party and party, the amount taxed has yet been by the scale given by that act, as under no circumstances could the fees mentioned in it, come up to the sums I have stated, and besides many of the items allowed by the clerk, form no part of the scale of the fees in the 33rd sections.

This brings me to the consideration of the 3rd and only remaining point relied on by Mr. Edwards, as counsel for the plaintiff, viz. the effect of the 24 G. II. c. 19, on this act he appeared to us, mainly to rest his answer to this rule, and he contended that if the court had the power of awarding costs, this act was a work of supererogation, as it cannot be presumed that the legislature would have passed an act to give a power which was already possessed. It was also urged as a legislative declaration, that the English statutes could not have been acted on previously to the 1st G. II, as this act, passed twenty-three

years after, directs the payment of costs in certain specified cases, and shews that, excepting to those cases the court has not the power to award costs. This argument, is on the surface, specious, but when we look at the preamble of the act, which declares the object which induced the legislature to pass it, and consider the words of the first section, which alone refers to this case, it appears to us to be clear that the act does not control the discretion given to the court by the English statues.

The principal object which the legislature had in passing the 24th G. II. was to induce merchants and others in England, to advance monies to enable the planters here to settle estates, by giving greater costs to plaintiffs, in the actions mentioned in the first section, than the court had been previously in the habit of giving to plaintiffs.

There are many expences incurred both by plaintiffs and defendants, in the prosecution and defence of actions at law, which are not allowed by the officer in taxing, but by this act the defendant is not onlyto pay, in the event of a verdict passing against him, the "usual taxed costs," but, "all such further and other charges, as the plaintiff, or his attorney and agent in this Island, shall by affidavit, make appear to have been by him laid out and expended in the same cause." This act therefore as we conceive, does not limit the payment of costs to those cases which it enumerates, but merely gives to the plaintiff in those cases, costs beyond those usually allowed in taxation; if this be the true construction of this act, instead of being a legislative declaration, that in no other cases than those which it specifies the court can grant costs, it is a distinct recognition that costs had been previously awarded and taxed by the clerk, and which costs I have shewn, are not confined to the items enumerated in the 10th Anne, but appear to have varied according to the capricious opinion of each successive clerk, or the judges by their officer, have been in the habit of exercising their discretion in granting costs against an unsuccessful party, whether plaintiff or defendant, and this application impeaches that discretion, by alledging that sufficient costs have not been allowed; now as we think, adopting the language of the preamble of the 24th G. II. c. 19. that "the obliging all men to a compliance with their contracts, and a punctual payment of their just debts," will be of infinite advantage to the community, and that nothing is so likely to procure this advantage, as the inflicting on parties the payment of heavier costs than those which are at present allowed in taxation, *we will in future direct such costs to be paid between party and party*, as shall on the one hand sufficiently indemnify a plaintiff when compelled to bring an action to obtain his just rights, and on the other, adequately punish him for a false claim;

but as we do not think that any alteration in the costs should have a retrospective operation, we discharge this rule, but without costs.

February 17, 1835.

AND now then, having laid this statement open to view, I must call the attention of the reader back to the first trial, (see page 95 to 100) which after he has given his attention to, say particularly to the defendant's counsel's speech, (Mr. Panton's) on the subject of costs, with his Honor's, the Chief's, tacit coincidence therein, as also to the verdict of the jury then recorded; I must then refer him to my address to His Excellency the Governor, under date June 12, 1835, (see page 52) wherein I state, " had it not been for the independence of His Honor the Chief Justice, in the last Surry Assize court, &c." being at that time quite certain of obtaining my bill of costs, when the then ensuing June Grand Court came round for it, to have been taxed, according to Sir Joshua Rowe's new rule, which both my counsel, Mr. Watkis, and my solicitor, Mr. Mowat, assured me of, and further to (see page 105 to 107,) what the public newspapers, under date 22nd April, 1835, had said on that head,

AND now having given those references back, I proceed to give a copy of the different documents, as prepared and served, by my solicitors on the proper parties concerned, previous to the intended taxation of my bill of costs, to be entered up, in the June Grand Court, as part of my judgment obtained in the April Assizes.

DOCUMENT No. 1,

Is a Notice to tax Bill, from my Solicitors. Messrs. Mowat and Read. Served upon the Defendants Solicitors, Messrs. Whithorne, Forsyth, and Anderson, and acknowledged by them. Dated 23d May, 1835, on the proper stamp, and as follows:—

Jamaica, Ss.

In the Supreme Court.

Sterne, Henry, v. Swire, Roger, and others.

Judgment obtained, February Grand Court, 1835.

TAKE NOTICE, *that the bill of costs out of purse incurred by the plaintiff in this cause, will be laid before Sir Molyneux Hyde Nepean, Baronet, Clerk of the Supreme Court, at his Office, in the Town of Saint Jago de la Vega, on*

Friday, the 29th day of May instant, for taxation, when and where you may attend if you think proper.

Dated this 23d day of May, 1835.

MOWAT & READ,

Plaintiff's Attornies.

To Messrs. Whitehorne, Forsyth, and Anderson,
Defendant's Attornies.

Received, W. F. & A.

DOCUMENT No. 2,

Is a receipt for witnesses' expenses, of £8.

Received of Henry Sterne, Esquire, the sum of six pistoles, the expenses of my attendance at the Assize Court, and which amount was awarded to me by the Court.

Kingston, 16*th April,* 1835.

ISAAC SILVERA.

DOCUMENT No. 3,

Is a receipt for witnesses' expenses of £6 13s. 4d.

Received of Henry Sterne, Esquire, the sum of five pistoles, the expenses of my attendance at the Assize Court, and which amount was awarded to me by the Court.

Kingston, 16*th April,* 1835.

JOHN E. ANDERSON.

DOCUMENT No. 4,

Is a receipt for witnesses' expenses, of £8.

Received of Henry Sterne, Esquire, the sum of six pistoles, the expenses of my attendance at the Assize Court, and which amount was awarded to me by the Court.

Kingston, 16*th April,* 1835.

M. M. SOLLAS.

DOCUMENT No. 5,

Is an affidavit of the service of subpœnas upon two of my witnesses, with a statement on oath of service money, and mile money paid each, on the proper stamps.

Jamaica, Ss.
In the Surry Assizes.

STERNE, HENRY, v. SWIRE, ROGER, and others.

HENRY STERNE, *of the parish of Saint George, in the*

County of Surry, and Island aforesaid, Esquire, being duly sworn, maketh oath and saith, That he did, on Saturday, the twenty-first day of March last past, personally serve John Edward Anderson in the annexed original subpœna, named with the said subpœna, by delivering unto and leaving with him a true copy thereof, and the sum of one shilling and three pence service money, at the same time shewing unto him the said original subpœna. And this deponent further saith, that he, this deponent, did at the time of serving him with the said subpœna, tender unto and leave with him the sum of two pounds currency, for his travelling expenses, being at the rate of one shilling for each mile from his place of residence to the city of Kingston; and deponent further saith, that he did, on Friday, the twenty-seventh day of March last past, also personally serve Isaac Silvera in the annexed original subpœna, also named with the said subpœna, by delivering unto and leaving with him a true copy thereof, and the sum of one shilling and three-pence service money, at the same time shewing unto him the said original subpœna. And this deponent further saith, that he, this deponent, did, at the time of serving him with the said subpœna, tender unto and leave with him the sum of three pounds currency for his travelling expenses, being at the rate of one shilling for each mile, from his place of residence to the city of Kingston.

HENRY STERNE.

Sworn before me, this 14th day of April, 1835.

JOHN PHILLIPS, *per Commission.*

DOCUMENT No. 6,

Is an affidavit of materiality as regards the necessity of such services, on the proper stamps.

Jamaica, Ss.

In the Surry Assizes.

STERNE, HENRY, V. SWIRE, and Others.

HENRY STERNE, *of the Parish of Saint George, in the County of Surry, and Island aforesaid, Esquire, the Plaintiff in the above cause, being duly sworn maketh oath and saith, That John Edward Anderson, and Isaac Silvera, in the annexed original subpœna named, are very material witnesses, and each of them is a very material witness on the part and behalf of this deponent in the above cause, and that without the benefit of the testimony of the said John Edward Anderson, and Isaac Silvera, he, the deponent, cannot with safety proceed to trial therein,*

and this deponent saith, he doth not make this affidavit for the purpose of delay, but only to obtain complete justice in the above cause.

HENRY STERNE.

Sworn before me, this 14th day of April 1835. }

JOHN PHILLIPS, *per Commission.*

DOCUMENT No. 7,

Is an affidavit similar to No. 5—only upon another witness, and on stamp likewise.

DOCUMENT No. 8,

Is an affidavit similar to No. 6—only upon another witness, and on stamp likewise.

DOCUMENT No. 9,

Is a further notice to tax bill, similar to No. 1—but dated 3rd June, 1835, on the proper stamps, the meeting having been adjourned.

DOCUMENT No. 10,

Is an affidavit of my own as prepared by my solicitors of, the costs of increase; without which, the bill of costs could not be attended to, and on the proper stamps.

Jamaica, Ss.

In the Supreme Court.

STERNE, HENRY, *v.* SWIRE, ROGER, and others.

Judgment obtained, February Grand Court, 1835.

HENRY STERNE, *of the Parish of Saint George, in the County of Surry, and Island aforesaid, Esquire, the plaintiff in the above judgment, being duly sworn, maketh oath and saith, that he hath in the above cause, incurred with, and become liable to pay, and has in part paid to his attornies at law, the annexed bill of costs, amounting to the sum of* SEVENTY-NINE POUNDS, ELEVEN SHILLINGS, and FIVE PENCE *current money of Jamaica, which this deponent believes, being so advised, he is entitled to have taxed, as costs of increase in the above cause.*

HENRY STERNE.

Sworn before me, this 23rd day of May, 1835. }

JOHN PHILLIPS, *per Commission.*

DOCUMENT No. 11,

IS THE BILL OF COSTS itself, amounting to £79 11s. 5d., which would have been taxed, and appended to the aforementioned judgment; but, in consequence of the particular instructions of the Chief Justice, Sir Joshua Rowe, himself. The Clerk of the Court, instead of taxing it, endorsed on the back, "*This bill to be allowed to stand over till Monday at nine o'clock.*

When the Monday arrived, which was the first day of the Supreme Grand Court, for June, 1835, *the Chief Justice stated, that he did not intend to allow me my costs out of purse, but merely the ordinary taxed costs of the court, which amounted to only* £9 7s. 6½*d., which* £9 7s. 6½*d. were the Chief Justice's and other officers of the court's, fees; and not forming any portion of the* £79 11s. 5*d., thus, adding this charge, my real bill of costs amounted to* £88 18s. 11*d.*

The verdict granted me by the jury, was £51, *and now adding the costs of court, my judgment amounted to* £60 7s. 6½*d. Thus the reader will observe, that on this* 1st *action alone, although I obtained a verdict for* £51 *damages, it did not cover my cash bill of costs, actually expended by me in bringing this atrocious case before a court and jury, by* £28 11s. 5*d., saying nothing about my own lodging bill and private expences which of course was not introduced (neither could it have been) into the aforenamed bill of* £79 11s. 5*d.*

Where then I ask, is the justice I obtained? does not common sense point out, that the jury fully intended the £51 *verdict of damages, granted to me by them, was to indemnify me for my furniture, so unjustifiably and illegally levied on—taking it for granted, of course, according to the shewing of the defendant's own counsel before them, which was tacitly allowed to be correct by the Chief Justice then sitting, that I should, besides the verdict of Fifty-one pounds damages, be repaid all my bill of costs in bringing this action.*

*** NOW, KIND READER, if I have excited your feelings, or raised your surprise, as to the treatment I have experienced in regard to this first action; what will you say, when you have heard my narration of the second action *and continued onwards to the further trial against Mr. White.*

THE JURY on the second trial, being led away by the extraordinary tact of the Chief Justice—who so arbitrarily kept back the evidence of my witnesses, and impressed upon their minds the fact "*that there was no evidence then before them, of malicious feeling*" and that the jury on the first trial, had

no doubt given me an ample remuneration for the both levies of furniture taken away; for his notes had proven to them, the fact of the second levy, having been given in evidence, at the first trial. The jury as will be noticed on reference back to page 138, retired, and were locked up for some hours, consulting as to the nature of the verdict they should give, *and I learnt afterwards that their differences together, was on the point of costs, some few of them strenuously holding out, for 7½ damages, so as to make the defendants pay my costs out of purse, agreeable to the new rule of Sir Joshua Rowe's court, but the majority were against this, and would not give a fraction damages, but the whole of them agreed to the verdict returned, as to each party bearing their own costs.*

The error committed by the jury was therefore irretrievable, and when the time for taxing the bill of costs came round, which was in October, 1835, *the defendant's counsel applied for their full costs out of purse, agreeable to the new rule made in February: and now His Honor granted this without the slightest hesitation, and though they had not a fraction of damages at the hands of the jury, Sir Joshua Rowe allowed a judgment to be entered up on record against me of £9 13s. 6d. being the ordinary taxed costs of court, and further for the sum of £85, 19s. 10d. the full amount of the defendants costs out of purse, in maintaining this action.*

Immediately as the judgment was ripe for execution, which was in October, the defendants, without the slightest courtesy, information, or application, issued a writ of execution by special precept, giving orders to the deputy Marshal to forthwith take me to jail, unless I immediately paid the money; I happened to be away from home when the deputy Marshal went to my house: this information was communicated to Mr. Swire, who immediately posted off an express to Kingston, upwards of 40 miles, to a second deputy Marshal, who forthwith proceeded to my lodgings, which was a public lodging house, to execute the writ, *had he been as full of malice as either of the defendants*, I *should then have been in a pretty pickle, for I had not the money by me; but this gentleman, however, proved to be a gentleman, and felt sincerely the hardness of my case, and I feel much pleasure in being able here to acknowledge his kindness and gentlemanly treatment; he was to me a stranger, but had heard of me, and as I have said, felt for me under present circumstances, and instead of dragging me to jail, as he might have done, he allowed me on my own patrole of Honor, to go out and make my own arrangements with my Merchant, so as to get the money.*

Having thus got time of grace, I applied to Mr. JOHN NETHERSOLE of Kingston, of the firm of John Nethersole and Co., *which firm at the very time was owing me money*, on account of shipments then in England, consigned to their friends; and further, their agent John Brookes, Esq. of London, *who had likewise become my agent for the past ten years, through the introduction of their firm)* had then at the time in hand for me which Mr. JOHN NETHERSOLE, was made acquainted with *more than One Thousand pounds sterling*—Yet notwithstanding all this, and the awkwardness of my situation, I could not persuade Mr. JOHN NETHERSOLE to advance me the monies, and thereby liberate me from the predicament I was placed in.

Mr. JOHN NETHERSOLE being the intimate friend and Agent, of both Mr. Swire, and Mr. White, as also of Mr. Dunbar the Deputy Clerk of the peace; considered as I supposed that to please them would be of more interest to him, than to please me; notwithstanding his having been my agent for the past 10 *or* 12 *years, and had done business with me to the extent of Thousands, Yet now in this instance he openly declared he would not, and gave as his reason, because I was at law with is friends the magistrates of Saint George's.*

The reader is particularly requested to carefully note all this, respecting Mr. JOHN NETHERSOLE, as he will find him brought forward on my trials against Mr. Special Justice White, as a very serious witness against me.

I was compelled therefore in order to make good my promise to the Deputy Marshall, to make a considerable sacrifice so as to raise the money, which I did and paid up the amount of the writ.

The following is a true copy of this precious document for which I had to pay the enormous sum of £101 13*s.* 4*d. my case is the first, and only case of the kind that ever happened, and I hope ever will happen iu Jamaica.*

DOCUMENT No. 12.

Venditioni Returnable,

February Grand Court, 1836.

SWIRE, R., WHITE, F., and BAUGH, R., Esquires,

V. STERNE, H., Gentleman

Levy Damages, Costs and Interest.

Damages	0	0	0
Costs	9	13	6
Delays	0	16	3
Interest	0	0	0
Further Costs of Suit	85	19	10
	96	9	7
Fee and Docket	5	3	9
	£101	13	4

(A true Docket.)

Hill, Davis, and M'Neil, Solicitors,

S. De Leon. D: M.

Received Payment, November 12, 1835.

S. De LEON, *Deputy Marshal.*

AND NOW KIND READER, if you have attentively perused the whole of the foregoing narration, put the question to yourself, and say whether or no, I am justified in exposing and bringing the whole of this atrocious and gross illtreatment before the public; and whether or no, I am doing a great public good thereby, because, were I to allow such to be smothered and buried in oblivion, the same which you now see has been practiced upon me by these powerful DANIELS, may be also practiced upon you and many others, with impunity, to-morrow or next day.

My Charges against the Chief Justice, Sir Joshua Rowe, for gross Injustice, as far as I have gone, is

1st. FOR HAVING *allowed the Jury, in April,* 1835, *who sat on my first action against Swire and others, to be deceived into a belief, that he would have allowed me full costs out of purse, and then afterwards, by a strong hand of power, which he usurped entirely to himself, he refused it.*

My right of costs out of purse cannot, by any sophistry of of argument, be nullified; and, to prove beyond a doubt, that this was the full impression upon the minds (at the time of the trial) of the Court, the Jury, the Counsel, the Solicitors, &c. &c. the whole of the foregoing expensive documents, from No. 1 *to* 11, *beginning at page* 143, *were prepared, by my Solicitors, on the instruction of Counsel, recognized by the defendant's solicitors, and the Clerk of the Supreme Court himself; and would have been duly taxed by the latter, and appended to my judgment accordingly; but, for the special interference of* SIR

JOSHUA ROWE *himself, as represented by the Clerk of the Court.*

2ndly. FOR HAVING, *on my second trial, in the month of August,* 1835, *prevented my counsel from sifting my witnesses, and thereby bringing stubborn facts before the Jury—and for having, on the production of his note books, in reference to the first trial, given such a partial and unfair colouring to such notes, when he must have been fully conscious of the fact, he having presided as Chief Judge. That such notes had not been actually received as evidence, he having instructed the Jury, on such occasion, that they were to look to the one levy only."*

3rdly. FOR HAVING, *as will appear by the production of his said notes, so taken on the first trial, and brought forward by him, and allowed as evidence on my second trial. Neglected his duty as a Chief Judge, by not having taken further notes, of the expulsion of such evidence given, on the representation of counsel, " That the second levy had nothing to do with the then action ;" as also his own comments, in addressing the jury, " that they were to look to the one levy only."*

4thly. THAT *he usurped the power of the jury on the second trial into his own hands; in neglecting to attend to their verdict of recommendation, " that each party should bear their own costs." And, by an arbitrary stretch of power, caused and permitted a judgment to be recorded against me, contrary to the true intent and meaning of such verdict ;* OF MY TWELVE PEERS *; to whom, and before whom, I appealed* FOR JUSTICE.

5thly. THAT, *in consequence of the exercise of this arbitrary power on his part, I was robbed of my right in the first action, of costs out of purse, to the tune of* £79 11*s.* 5*d.* ; *and, in my second action, I was further robbed (allowing, as the verdict was found for the defendants, that I was correctly saddled with the taxed cost of the court, amounting to* £9 13*s.* 6*d*) *by being made to pay the defendants' costs out of purse, to the tune of* £85 19*s.* 10*d.*, *saying nothing of minor expenses, amounting to* £165 11*s.* 3*d.* *And,*

6thly. THAT *the whole of this arbitrary and unjustifiable conduct on his part was caused by, and he was actuated from as I shall bye and bye clearly shew, ungovernable malice and revenge, and not from any desire to award justice for the public good.*

Having omitted to bring the Jamaica Act of the 44th Geo. III. (which was for the year 1803) with me to England, I am unable in this present Edition, to lay the same before my

readers; but, for their satisfaction, I annex the act which was in force before, and up to the passing of the 44th Geo. III.; it is as follows: —

Public Act passed in Jamaica, 1781.

For Wharfage and Storeage sec. 6. p. 246

And be it further enacted, by the authority aforesaid,

THAT every wharfinger shall, and he is hereby obliged, under the penalty of fifty pounds for every neglect to enter in his wharf book, the marks and numbers of the several produce of this Island, delivered at his wharf, with the names of the estates from which the same was brought; *and, if sugars, and directed to be weighed,* that he shall enter the weights, with the names of those to whom delivered, or of the vessels on board of which the same was shipped, and in like manner of every other produce.

COURTS OF JUSTICE.

An able writer on this subject says—*It is the glory of England, that all her Courts are, of right, open to the public,* The plaintiff or defendant, neither makes his appearance, nor pleads, but in places *where every one may have free entrance,* and the witnesses when they give their evidence—the Judge, when he delivers his opinion, the jury, when they give their verdict, *are all under the public eye;* and the judge cannot change either the place or the punishment awarded by the law.

Having said thus much, I now proceed to lay before my reader the trials of my actions against Special Justice White, the causes of which the reader must now be pretty well acquainted with; but, in order to refreshen the memory, I must revert a little backward.

On reference, then, to page 29, will be found my first memorial, addressed to his Excellency the Marquis of Sligo, as Governor of Jamaica, &c. &c. *under date 19th January,* 1835. Memorializing in very plain and strong terms, for redress of grievances, which I therein assured his Excellency was of *most serious tendency.*

Having learnt from quarters of undoubted authority, that his Excellency had neglected to interfere as regards my first complaint against the Honourable John Bell, *in consequence of Mr. Bell's having written him, that I was a poor humble individual, not worthy, or worth his Excellency's notice,* I thought it became my bounden duty, in order to arouse him to a more favourable consideration of my memorial, *to set forth therein who and what I was; referring him at once to a highly respectable individual, at his elbow, for reference, if required,* (Mr. Barrister Panton, of Spanish Town, an almost daily visitor at the King's House.)

My complaints, hitherto, had been forwarded to his Excellency through my solicitor, at a heavy expense, as will be by and bye seen, in order that want of form or legal tact on my part, should not prevent me from obtaining justice.

But now the aspect of affairs had become so serious, I thought it advisable to address his Excellency direct myself with a request, that my complaints, as made to him, might be forwarded home to the Colonial Office; and, in respectful terms, set forth my determination to follow up my appeal until I had obtained redress.

In this Memorial I laid before his Excellency a view of the league made by the Custos and his friends, Messrs. Swire, Baugh, and White, to injure me; *in consequence of my first appeal in regard to the Honourable John Bell, having been cast aside by his Excellency, and designated by him as "unfounded and frivolous."*

I pointed out various acts of serious outrage, both upon myself *and my innocent apprentice, who was, at the very time of my memorializing, in chains, and put to hard labour on my account.*

And I further pointed out the atrocious acts of cruel outrage, which I daily witnessed, carried into execution by this tremendous man of power.

As also the determination which he, Mr. Justice White, had come to, *to keep me expelled for the future, from all his Courts of justice.*

This very powerful appeal was, likewise, cast aside, and no notice taken thereof; for it will be seen, on reference to page 92, that, under date of Tuesday, the 27th of January, that White attended at the Court-house, and then and there, gave strict orders to the Constable, "*never to suffer me to put a foot there, and if I did to handle me well—for, says White, I received this letter* (shewing one) *from the King's House by last Sunday's post, &c, &c.*

Now let me here explain as to dates.

Monday 19th, *the date of my memorial.*

Tuesday 20th, *the second gross attack of White upon me.*

Wednesday 21st, *the day on which the post always leaves Buff Bay for Kingston, at daylight.*

Thursday 22nd, *this day, about 3 or 4 o'clock, p.m., His Excellency would have had my memorial.*

Saturday 24th, *the day on which White's letter from the King's House is dated.*

Sunday 25th, *the Post arrives at Buff Bay, about 12 o'Clock a.m., and in the evening White got his letters.*

Tuesday 27th, *the day above-mentioned, on which White boasts of his letter, which he had received from the Governor.*

So, then, I think I have given pretty good proof of his Excellency, the Governor's lending his aid, to this already too powerful Magistrate, to oppress me; *for White boasted, "that his instructions from the King's House were, to watch the fellow well, and by no means to permit him to enter his court.*

On the reader's referring back to page 33, and perusing the letter, dated from the King's House, 25th January, from W. G.

Nunes, His Excellency's Secretary, addressed to Charles Harvey, Esquire, as my solicitor, *and then comparing dates*, he will find, *that at the very time that His Excellency was giving the aforementioned instructions to Mr. White, to watch me, and keep me out of his court, he was performing a mockery of justice, in writing to my solicitor*, "that he would investigate the circumstances, detailed in my memorial," *which promised investigation never took place.*

On the reader's now referring back *to page* 34, *and following up its perusal to page* 41, *he will at once enter the very cream of my appeals for justice.* The first is a very able and powerful appeal, made by my solicitor, Mr. Harvey, unto His Excellency's Secretary, accompanied by an affidavit exceedingly powerful, shewing up a serious act of oppression, which I had sustained, and for which I was about appealing to the laws of my country, dated, Thursday, 29th January.

This also it would appear was cast aside by His Excellency, and it would seem *His Excellency took great offence at Mr. Harvey's powerfully urged appeal;* for it appears he did not reply to it, until *after* I had *again memorialized him*, and then at page 45, under date, 7th February, will be seen, Mr. Nunes' answer, written, as he there states, "*by His Excellency's command, that he had communicated direct with Mr. Sterne, on the subject.*"

Now, as a further proof of His Excellency's non-interference, it will be seen on reference to dates, that another post had passed off, even after the aforementioned powerful appeals of my solicitor, by his letter, and my affidavit.

Mr. Harvey's letter was dated, Thursday, 29th, he lives directly opposite the King's House, yet Friday and Saturday go by, which are post days, from Spanish Town, and no notice is taken towards a redress for my injuries.

Tuesday, the 3rd of February, comes on; and on reference back to page 42, the reader will find a second very powerful memorial from me, addressed to His Excellency, the Marquis of Sligo, as Governor, *&c. in reference to further injury and insult, which I had that morning experienced at the hands of Special Justice White.*

I therein gave His Excellency to understand, *that Mr. White had boasted, that he had received instructions and authority from His Excellency, thus to handle me; and closed with my request that this memorial might likewise be forwarded home to the Colonial Office.*

Now it will be observed, *that it was only on the receipt of this memorial*, that His Excellency appeared to have been

aroused to any consideration on my behalf at all, for by that return of post, on reference to page 48, and W.G. Nunes' letter addressed to me, under date, the King's House, 7th February, it will be noticed, that it is there intimated, *that Mr. White was no longer in the Magistracy.*

The reader *is particularly requested to consider this letter and my reply thereto, under date, Buff Bay, 10th February;* for, on reference to page 53, in a letter of W. G. Nunes', as addressed to me, *under date, The King's House, 20th June*, 1835. after he had found out that I had myself appealed home to the Colonial Office, and he had received Lord Aberdeen's acknowledgment of that appeal, he says,

"*With respect to your complaints against Mr. White, that gentleman, as you have been informed, is no longer in the magistracy; and, on the 7th February, it was put to you, whether you wished, under these circumstances, to have it proceeded with further, and if so, that it would be proceeded with; as you did not urge this, it was not done, though his Excellency was quite ready, as it was a matter of duty for him, to enquire into.*

1st Then, what is the nature of the King's House letter of the 7th February. *It is simply this.* His Excellency having *become alarmed at the nature of my second memorial under date, 3rd February; therein finding Mr. White had let the cat out of the bag*; by boasting "*that he had his Excellency's authority to handle me in the manner that he had done, and henceforth to keep me out of his Court,*" which he, his Excellency, knew full well *was quite against all British law and justice*, at once determined *to smother the case, and bury, for ever, as he thought, the matter in oblivion. He, therefore, by return of post, sends the magistrate a notification of his dismissal, and thereby thinks that, as he is no longer in the commission, I shall consider it was on my account, and be satisfied, and so urge nothing of an investigation.* For he therein notifies, "That my papers relative to Mr. Bell were in preparation to be sent home by the first mail, *and intimates that such will not now be necessary, as against Mr. White*, 'that gentleman being no longer in the magistracy;' *but he cautiously adds a P.S.* 'you will be pleased to understand, that if it be still your wish that your statement should be forwarded to the Colonial Department, as relates to Mr. White, his Excellency will, of course, attend to it."

What, then, I ask, *becomes of Mr. Nunes's boasted communication to me of the 7th February?* He does not make any thing like the liberal offer therein, as he would wish it to appear, of doing me justice.

But now, look to my answer of the 10th February, viz.—"*To avoid any further misunderstanding as to the object required by me, I respectfully beg leave to submit to his Excellency's consideration, my desire that his Excellency will be pleased to issue a special commission, directed to any three of his Majesty's Justices for the parish* (not being resident at Buff Bay) *to investigate into the charges against his Honor, the Custos, with power to call parties before them, and to examine witnesses on oath, and to report their opinion, and their examination in writing to his Excellency, the result will then carry with it the truth of my complaint, or the falsity of the same; in failure of this my humble desire being granted to me, then it is my wish, that the whole of my petitions touching the Honourable Mr. Bell, he forwarded to England by the first mail, with copies of your communication to me, and my solicitor, and our respective replies thereto.*"

"*If I am compelled to the remedy of forwarding the charges made by me against Mr. Custos Bell, home to the Secretary of State for the Colonies, then I should wish my two representat ons against Mr. White to be also forwarded, as it will be the means af exposing his conduct, and the oppression I have suffered, &c. &c.*

And now, *instead of His Excellency's at once entering into the spirit of my request, which was impossible to misunderstand,* and thereby granting me justice, which would have at once quieted and buried in oblivion the past, and prevented me from entering into that long, tedious, expensive, and ruinous lawsuit, which I was compelled to do, for the safety, honour and protection of my character, and pecuniary affairs in life; *he at once evades my earnest desire of investigation,* and in a very cool calculating way, instructs his Secretary by his answer, (see page 46) under date 20th February, to say, "*I am to acquaint you that your complaints against Mr. Custos Bell have been sent home already by the last packet.*"

Not a single word of condolence for the very grievous wrongs and injuries, which myself, my family, and my apprentice, had received at the hands of Mr. special justice White, nay, for what he was fully aware I was then receiving at the hands of the Custos, Mr. Swire, and others, but he leaves me and my family, at once to sink into ruin and obloquy, nay, he even assists the faction to hasten my ruin, (thereby probably thinking I should have the least power of exposing his conduct, and calling him to an account,) *for when Colonel Moody of the Saint George's Regiment, according to the law of the island, and rules on such occasions, recommended me* (to Him as Captain-general) *to fill up a vacant Ensigncy in his Regiment,*

he passes such recommendation by, and appoints another, thus strengthening the hands of the faction. and encouraging them to continue the evil.

What had I, or what was I now to do? left as it were destitute, forsaken on all sides by every earthly succour, nothing but the prospect of inevitable ruin, both for myself and family, staring me in the face; the powers who wielded the laws, say the Custos, as chief magistrate of the parish, joined by his party of the magistracy in my immediate neighbourhood, and they backed by the representative of Majesty, whose bounden duty it was to protect, and to redress the wrongs, of the humblest, yea the meanest of his Majesty's subjects, were thus joined together to work my destruction; all my prospects in that part of the colony blasted, my property, under color of the law, wrenched from me, compelled to surrender up my wharf to another, my clerk and servants compelled through fear to quit me, my friends and acquaintances partly through fear, and partly through misrepresentation, refusing to hold intercourse with me, and my outstanding debts kept back, and refused payment, whilst the magistracy refused to concede the power of the law to enforce my rights.

With all these gloomy prospects full in view, and my hands already full of law, by the actions pending, which I had sent out against the magistracy, Swire, Baugh, and White, *What was I to do? Pointed at in the parish, as the Agent of the Anti-slavery Society in England, and an enemy to the Island, and not worthy the protection of its laws.* I say, considering all this, does it not look almost like madness in me, further attempting to buffet the stormy elements, and thereby seek for redress in so prejudiced a community. *But,*

"*What stronger breast-plate than a heart untainted.—*
Thrice is he armed that hath his quarrel just,
And he but naked tho' lock'd up in steel,
Whose conscience with injustice is corrupted."

The justness of my cause, strengthened my reasoning faculties, and the gross injustice, by the attempt of so powerful a party, enleagued together to crush me; renervated my nerves, and at once determined me; conceiving it would eventually work a great public good by the exposure, I took the following beautifully written passage to my aid, *and dashed onwards.*

"*Though troubles assail,*
And dangers affright;—
Though friends should all fail,
And foes all unite;
Yet one thing secures us,
Whatever betide,
The Scripture assures us
The Lord will provide."

Finding therefore from the last reply of His Excellency's Secretary, dated 20th February, to my communications, that the charges preferred by me, against Mr. Custos Bell, *had alone been sent to England*, I immediately drew up a Duplicate Copy of all the papers and correspondence connected with the case, and addressed a letter with the same, *To the Right Honorable, the Earl of Aberdeen, then Colonial Secretary*, (see Page 46,) under date from Buff Bay, Wednesday, 4th March, 1835, so that his Lordship should at once be put into possession of all the facts connected therewith.

And now I set to work to send out an Action against Special Justice White, for wrongs I had received at his hands.

On reference to the law, my solicitors Messrs. Mowat and Read, *very candidly warned me of my danger*, of being mulcted in treble costs, if by any chance, I should have failed in my intended action, *but nevertheless, assured me, that never man could have by any possibility, a better cause for entering into a court of justice, for redress, than I then had*; nothing, they assured me would be wanting to obtain for me a complete victory, but the means; for, said they, with the proofs you have adduced before us, *your case is clear, and justice you must obtain*; but ah, said they, the means, the monies, to bring up your witnesses, to fee your Counsel, to pay your way, *it will be enormous*, and we would advise you to calculate beforehand. *You know that the Chief Judge is against you—he is not your friend*, and if you fail in your proof, or fall short in your means, *you will be ruined*, you will be mulcted in treble costs, which may amount to £1,000 besides your own; *see to it.*

The following are the clauses of the act, bearing on my case, and the only clauses in reference thereto:—

An Act, in Aid of the Act, for the Abolition of Slavery passed in July, 1834, in Jamaica.

Sec. 11. And be it further enacted,

That no action or suit shall be brought or commenced by any person, against any Special Justice, for any act, matter, or thing, done by him in the execution of the said act of fourth of William the Fourth, c. 41, or of this act, or of any act passed in aid of, or to explain and amend the said act of the fourth William the Fourth, chapter 41, *unless notice of bringing such action shall have been served on such Special Justice, or left at his usual or last*

place of abode at least one month previous to such action being brought; and if a verdict shall be given for the defendant in any such action or suit, or the plaintiff therein shall be non-suited, or such action shall be discontinued for want of going to trial, the plaintiff therein shall pay to the defendant treble the amount of his full cost out of purse, expended by him in the defence of the said action or suit.

Sec. 12. And be it further enacted,

That if any such Special Justice, against whom any action or suit shall be so brought, shall at any time after such notice given, before the trial of the said action, tender to the said plaintiff sufficient amends for such wrong or injury, in respect of which such action has been so brought, and submit to pay the cost of suit up to that time incurred, and if the plaintiff shall refuse to accept such amends and costs, and the verdict shall be given for the plaintiff, for the sum so tendered, or a lesser sum, then the court shall order and direct the plaintiff out of such damages to deduct the full costs out of purse of the defendant, and an execution shall be lodged only for the amount of such damages after such deduction.

Sec. 13. And be it further enacted,

That no action or suit shall be brought against any Special Justice in respect of any act, matter or thing by him done, in pursuance of the said act of fourth, William the Fourth, cap. 41, or of this act, or of any act passed or to be passed in aid of, or to explain and amend the said act of Fourth, William the Fourth, cap. 41, unless the same shall be commenced within six months after such cause of action shall have occurred.

In conformity with the foregoing act, the following was prepared and duly executed:—

Notice of Action.

To FREDERIC WHITE, Esquire, late a Stipendiary Ma-

gistrate, or Special Justice, in and over the parish of Saint George, in the Island of Jamaica,

I, HENRY STERNE, of the parish of Saint George, in the County of Surry, and Island of Jamaica, Esquire, do hereby, according to the form of the act of the Governor, Council, and Assembly of the Island of Jamaica, in such case made and provided, give you Notice, That I shall, by my Attorney, at or soon after the expiration of one month from the time of your being served with this notice, cause a declaration in trespass to be sued out of his Majesty's Supreme Court of Judicature of the said Island, at Saint Jago de la Vego, against you, at my suit, and proceed thereupon according to law, for certain trespasses committed by you, on my person, in the months of January and February last.

Dated this 17th day of March, in the year of Our Lord, 1835.

Your obedient Servant,

HENRY STERNE.

MOWAT & READ, *Kingston,*

Attornies of Henry Sterne.

Affidavit of Service of Notice.

Jamaica Ss.

ANDREW HARRIS BROWN, of the Parish of Saint George, in the County of Surry, and Island aforesaid, Gentleman, being duly sworn, maketh oath, and saith, that he did on Wednesday, the eighth day of April instant, personally serve Frederic White Esquire, late a stipendiary Magistrate or Special Justice in and over the Parish of Saint George, in the Island of Jamaica, with the annexed original notice, by delivering unto, and leaving with him, a true copy thereof, and at the same time shewing the said original notice.

ANDREW HARRIS BROWN.

Sworn before me, this 21st day of April, 1835. }

GEORGE HALL, *by commission.*

Receipt for Service Money.

RECEIVED from Mr. Henry Sterne the sum of one pound, six shillings and eight pence, for serving a notice of action on Mr. White, late Stipendiary Magistrate.

£1 6s. 8d. ANDREW H. BROWN.

Buff Bay, 11th April 1835.

Having served my notice of intended action according to law, much more than a month before the sending out of the action itself, Mr. White had full and ample time to reflect upon his situation. It so happened, also, that at the very time Mr. Andrew Brown served Mr. White with the notice, Mr. White was at Iterboreale Estate with a Mr. M. Sollas, who was a real friend, and well-wisher of both parties. Indeed, this gentleman, with his father, Mr. Sollas, the elder, were the only two in my immediate neighbourhood of Saint George's, who openly stuck by me as friends, during all my struggles with the Daniels of that parish.

On the morning of Wednesday, the 8th day of April, while Messrs. White and Sollas, with Adam Gray, Esq., were in conversation at Iterboreale, Mr. White was called out of the house by the servant, and on his going out, Mr. Andrew Brown served him with the notice referred to; *immediately on his receiving it, he ran in and shewed it to his friends, Messrs. Gray and Sollas, saying, "See here, what the devil do you call all this? I thought I was out of all these hobbles; but I find, by Heaven, I am not—Sollas, what shall I do?" &c. &c.* His friends, both of them strongly advised him to compromise the matter, and make peace, if it could be possible to get Sterne to consent; both agreeing and candidly telling him, that I had been most shamefully ill-used by him. Mr. Adam Gray being one of the most respectable and best beloved men of the parish; he is Lt.-Colonel of the Regiment, one of the senior Magistrates, and a joint Churchwarden with the Custos. And Mr. M. M. Sollas, being the son of a highly respectable merchant, who is, as also himself, freeholders in the parish—both of whom are most worthy men—they gave their advice feelingly, and disinterestedly, for which Mr. White expressed himself extremely thankful; *and, as Mr. Sollas was a neighbour of mine, and White knew him to be friendly with me, Mr. White commissioned him, if possible, to effect a compromise.* Accordingly, Mr. M. Sollas, shortly after waited upon me, and, having communicated to me what transpired at Iterboreale, he urged, in the most friendly manner, the folly of going to law, and the great good that would result to both parties by a reconciliation, or mutual good understanding, so as to put an end to the intended action. *I urged upon him the gross injuries I had sustained, the wrongs I had endured, and the insults I had experienced, as well as the ruin that was staring me and my family in the face, in consequence. I bless the young man every time I think of him and I earnestly pray that the good Almighty may shower down, the choicest blessings, both upon him and his family,* (for be it known, he also is a married man, with a young family).

I shall here take the liberty of quoting a passage from the

Volume of Eternal Truth, by way of comfort to those, of my readers who may have been similarly situated.

"*Blessed are the peacemakers: for they shall be called the children of God.*" *5th c. Matthew 9th v.*

Sollas condoled with me, and not merely expressed himself, but sincerely felt for me, and used all the eloquence immaginable to bring about a reconciliation, consistant with the honor of both parties, he truly was the real friend of both of us; and it was hard to say whom he regarded most, and for whom he felt most; *he knew me to be a serious sufferer, and a deeply injured man, and he looked upon Mr. White as having been dismissed from the magistracy, and victimized by his Excellency the Governor, to screen his faults, and his sad misrule of his Majesty's Government;* there was not the slightest mention, or hint of money matters passed between us, in regard to expenses, &c., *and it was finally agreed upon between us, at this time, that if White would come forward, express his regret for what had passed, and give me his letter to such effect, that I was to have forthwith dropped all proceedings against him;* accordingly some few days after, Mr. Sollas waited upon Mr. White, and communicated to him the result of this interview with me, *but Mr. White became alarmed that I should publish his letter in the newspapers, and accordingly stipulated that such should not be done;* this caused a further delay of a few days, in the mean while, Sollas having again seen me, *it was agreed between us, that I should not publish White's intended letter of apology, in the newspapers, but that I should, be at liberty to show it, to all my private friends and acquaintances, as also to forward it to the Governor, so as to do away with the erroneous impression formed of me by His Excellency.*

Some few days further elapsed, when Sollas again saw White, *and White at this interview with him, finally agreed to these latter terms*, leaving it to him, Sollas, to draw up the letter, and then *fixed the following Monday, to meet me at Mr. Sollas's the elder, on Buff Bay, and in presence of the two Mr. Sollas's, to offer me his hand, express his regret for past occurrences, and grant me the letter of apology*, as agreed upon.

Now there was no time for delay, as this fixed upon Monday commenced the issuing of summonses for actions, through the provost Marshal-general's office, for the ensuing June Grand Court; accordingly on the Monday morning I prepared myself, and had my horses ready to ride over to Kingston, immediately after we had had our intended meeting, so as to put a stop to the action; Monday came, and about 10 o'clock, a.m. Mr. Sollas sent me a message to say he wished to speak to me; I went, and he communicated to me, that *the intended meeting was broken off by Mr. White, from whom he had just then*

received a note, stating, that in consequence of his (White's) *receiving a letter by the Sunday's* (yesterday's) *post from his friend, Mr. John Nethersole of Kingston, he must for the present postpone the intended arrangement, as Mr. John Nethersole strongly advised him not to give any letter of apology.*

Of course I was highly incensed at such wavering and untoward conduct, and, without further hesitation, I posted off to Kingston, to see that the action was sent out without delay.

Here again was an opportunity given to Mr. White's *pretended* friend Mr. John Nethersole, of preventing the action from being sent out, *for it so happened, that while I was busy with my solicitor, Mr. Mowat,* in his office, arranging as to the sending out of such action. *Mr. John Nethersole stepped in,* and as my solicitors, Messrs, Mowat and Read, are also the solicitors of Mr. John Nethersole, we entered into conversation together, *Mr. Mowat observed to Mr. Nethersole, see here, shewing him a receipt he was at the time writing out for me. for cash fees for such action, which I had just then paid him of £21 6s. 8d. and handling other papers* which lay before him, connected in the case, *he continued to observe, come Nethersole, see and get this unpleasant affair settled, I assure you, Sterne has been very ill-used, he is indeed, an injured man,* and your friend White must be cast; we have got too good proof for the action to fail; I know Sterne, he is a good fellow; he only wants what is right, *and you have the power of putting a stop to this matter.*

What, says Mr. Nethersole, I got the power! *I have nothing to do with the matter.* I have only troubled myself with the question of the loss of the goods at his wharf, and he is going to get an action for that this court.

With all my heart, say I. I am quite willing to receive the action, as the loss of the goods was not my fault, it was more of a judgment upon White than anything else.

And to be very candid with you, said I to Mr. Nethersole, you are to blame, and it is all your fault, that this action is now going out.

Ah, cries Nethersole, how is that?

Why Sir, said I, it would all have been amicably settled yesterday, but for your interference. Mr. White had agreed to have met me yesterday, at his friend's Mr. Sollas, and there settled the matter, but instead of his coming, *he wrote Mr. Sollas a note, stating that in consequence of his receiving a letter from you,* advising him by no means to agree to any arrangement with me, until you and him had first met, and so the matter was broken off.

I wrote him so cries Nethersole, *I never wrote him any thing of the kind*, I have my letter book, and I will show: here, says he, calling to one of the young men in the office, run down to my counting-house, and tell Greensword to give you my letter book, so and so; the young man went, and presently returned with the letter book, *which when he, Nethersole, had opened, he read the letter alluded to, which contained a paragraph, such as I have described;* well, says Nethersole, *that was not my meaning*; however, Mr. White will be in town himself to-day, and he will be best able to judge for himself, and shortly after left the office.

Well, says Mowat, 'tis a pity this affair cannot be made up; *Ah, my boy, you will get an action from White about the goods* why you will be ruined at law, so I left him fully expecting to have been served before the last day of summoning with an action, at White's instance for the goods lost, referred to at page 71, but none came.

FIRST ACTION.

In the Supreme Court.—June Term, 1835.

STERNE, HENRY; *v.* WHITE, FREDERIC.

Surry to Wit, } Declaration filed. }

HENRY STERNE, Esquire, the plaintiff in this suit, by Edward Charles Mowat, his attorney, complains of Frederic White, Esquire, the defendant in this suit, of a plea of trespass, for that the said defendant heretofore, *to wit, on the 13th day of January*, in the year of our Lord 1835, *and on divers other days* and times between that day and the commencement of this suit, with force and arms, at the Parish of Saint George, in the County of Surry, assaulted the said plaintiff, and then and there seized and laid hold of the said plaintiff, and with great force and violence, pulled and dragged him about, and also *then and there, forced and compelled the said plaintiff, to go from and out of a certain public court-house* or peace office, there situate, *without any lawful authority, or reasonable or probable cause whatsoever*, and against the will of the said plaintiff, to wit, at the parish and county aforesaid; and also for that the said defendant afterwards to wit on the day and year aforesaid, and on divers other days and times between that day and the commencement of this suit, with force and arms, at the parish and county aforesaid, assaulted and then and there seized and laid hold of the said plaintiff, and with great force and violence pulled and dragged him about, *and then and there imprisoned the said*

plaintiff, and kept and detained him in prison there for a long space of time, to wit, for the space of one hour, without any lawful authority, or reasonable or probable cause whatsoever, and against the will of the said plaintiff, and also, for that the said defendant, *on the day* and year aforesaid, at the parish and county last aforesaid and on *divers other days and times* between that day and the commencement of this suit, assaulted the said plaintiff and him the said plaintiff then and there did beat, wound, and ill treat, and other wrongs to the said plaintiff, then and there did against the peace of our Lord the King, *and to the damage of the said plaintiff of* £500, and therefore he brings this suit &c.

EDWARD C. MOWAT,
Plaintiff's Attorney.

NOTE.

This action having been thus settled by Counsel, PRICE WATKIS, ESQUIRE, and sent out through the Provost Marshal General's Office, was served upon the defendant White, by the Deputy Marshal, by the 11th of the month of May, *which was shortly after communicated to His Excellency the Marquis of Sligo, Governor &c., who immediately appointed His Magisty's Attorney General, assisted by the Solicitor General, Mr. Panton, to act as Mr. White's counsel, and the Crown Solicitor Mr. Aikman, to conduct the case as his Solicitor; thus armed, and powerfully backed, Mr. White boasted in no measured terms.*

Fitzherbert Batty, Esquire, was retained by me to assist Price Watkis, Esquire, as my counsel.

Matters remained thus, until the August Surry Assize court came round; my witnesses, twelve in number, having been all duly subpœnaed, and served with their service and mile money, attended the court, *when lo and behold, most unfortunately for me, both of my counsel were so unwell, as not to be able to attend at court.* In this extremity, my solicitor told me it was a bad job, but that there was no help; and I must either submit to pay the costs of the defendant, in order to put off the trial for another court, or I must make up my mind to give my brief to some other counsel; this was a difficult point to decide, *I felt great perplexity; every earthly power seemed to be against me,* whilst White was sided by able counsel, and *at free cost, backed by His Excellency the Governor,* who to shelter himself from exposure, did all he could to help White out of this scrape; and worst of all, *the Chief Judge, Sir Joshua Rowe, was mine enemy, and the adviser of the Governor;* and I had good grounds to know he was determined to shelter His Excel-

lency and White, if possible; and then again, one of the assistant Judges, was Mr. White's intimate friend, viz., Anthony Davis, Esquire.

In this my great extremity, myself not knowing what to do, or what to decide upon, *I earnestly appealed to him, who searches the heart* (and who, in the volume of Eternal Truth, hath declared, that "he will never forsake those who put their trust in him") *for counsel and guidance;* and I felt inwardly confident that all would be well, notwithstanding the threatening appearances without.

I decided on going to trial, *and had to select for my counsel one who, at the same time, held a brief against me* (viz. in the cause of Sterne *v.* Swire and others, and of which the present defendant, White, was a party) viz. BOSWELL MIDDLETON, Esquire, quite a young Counsel at the Jamaica bar, but as smart and upright a one as could be desired—one thing, however, I must say, greatly alarmed me, which was—*that he is related to the Chief Justice, Sir Joshua Rowe, and an almost daily companion of his*; yet I must say, that in this trial he most manfully and independently did his duty.

My brief was handed to him, with the proper fee, only about forty-eight hours before the trial came on to be heard, and the day of trial at length arrived, which was—

WEDNESDAY, 19th AUGUST, 1835.

My witnesses being all present, the following composed the Court and Jury:—

THE COURT.

Sir Joshua Rowe, Knight, Presiding Judge.

Assistant Judges.—The Hon. **John Mais, Hector Mitchell, Anthony Davis,** and **W. B. King,** Esquires.

THE JURY.

1	Thos. Clinch, Foreman.		Planter.
2	Isaac Nunes Da Costa,	Kingston.	Vendue Master
3	John Fisher,	St. Andrew,	Planter.
4	Thellamont Da Silva,	Kingston,	Merchant.
5	James Brandon,	do.	Tobacconist.
6	Hugh Gordon,	St. George's,	Planter.
7	Dominick Dupee,	Kingston,	Shoemaker.
8	David Anderson,	St. Thos. in East,	Carpenter,
9	Moses M. Bonitto,	Kingston,	Merchant,
10	John Brandy,	do.	Gentleman.
11	James Gregory,	St. Davids,	Planter.
12	Frederick J. Fleming,	Portland,	Planter.

The cause having been called over from the court list, my witnesses, and all parties concerned, being in attendance.

BOSWELL MIDDLETON, Esquire, in a very able manner, opened the pleadings as my counsel. *He gave the court and Jury to understand, that this was a case of very gross trespass, and assault*, committed by the defendant, while acting in his Judicial Capacity as a Special Justice, upon his Client, the Plaintiff. *That the origin of the case was from the defendants having, most cruelly and unjustifiably, committed an innocent apprentice of Mr. Sterne's, the plaintiff, to the St. Georges Workhouse, where he was incarcerated in irons, and put to hard labour, for no offence, but merely to satisfy the vindictive feelings of the defendant*, that in consequence of such an unjustifiable committal of Mr. Sterne's apprentice; Mr. Sterne, who was at the time in the Special Justice's Court, having accompanied his wife, Mrs. Sterne, there, who attended in obedience to a very austere and peremptory written note, or summons, of the defendant, in his character as a Special Justice, which *note* will bye and bye be handed up in evidence. *Mr. Sterne, gentlemen, as became a man, and, as he was in duty bound, to protect his innocent apprentice, stood up, and remonstrated with the Judge*, and offered to produce evidence, to prove his innocence. Innocence, did I say? Innocence of what, gentlemen. There was no need to have proved any thing of the kind. *His apprentice was not brought before this Special Justice for any crime, for any fault, but appeared there as a complainant* himself, seeking redress at the Special Justice's Court; *and Mrs. Sterne was summoned there by Mr. White, to verify as to the truth of his complaint* (see page 75.)

The defendant, as we can prove, gentlemen, was owing this poor man an old grudge, *and he had been heard to say, that he would take this opportunity of punishing him.*

Mr. Sterne urged upon the Judge to hear Mrs. Sterne's evidence in the man's behalf; but, gentlemen, instead of the Judge listening to Mr. Sterne's remonstrance, and hearing Mrs. Sterne's evidence, *he got into a most violent rage, refused to hear any evidence of Mrs. Sterne, declared he had already committed the man; and, if Mr. Sterne dared to open his mouth any more, he would likewise commit him, and have him put alongside of his apprentice.*

On Mr. Sterne's attempting further to remonstrate, he swore at, and abused him from the bench, and called upon the policemen, who were then in attendance, with drawn swords, and made them lay hold of Mr. Sterne, and with violent hands they tore him, and dragged him out of the public Court-house; and all this done, gentlemen, in presence of many of the respectable parishioners, who witnessed the degradation committed on my client. Mr. Sterne having seen Mrs. Sterne home, and noticed

another Special Justice ride up to the Court-house, *and feeling acutely the wrong and injustice committed upon his innocent apprentice* (and that, too, on his account) ; *and I must say, callous would have been his heart if he had not*—he, as became a man, returned again to the Court-house, with an intention, if possible, and thinking that, by respectful intreaty, he might obtain the liberation of his apprentice. But, gentlemen, no sooner was Mr. Sterne seen by the defendant to enter the Court-house, than *he again called upon the policemen, and, with oaths, made them again drag and hustle Mr. Sterne out of his court, and gave them strict orders never again to let him set his foot in his court ;* and advised his associate, Mr. Fishburne, to act the same way, designating him as a dangerous character, and asone that would report the decisions of his court. Gentlemen, it is proper for me to inform you, that a public Court-house is open, and free to all parties, and no one, *not even the Judge himself, dare, but at his peril, to force you out of it,* so long as you do not interrupt the proceedings of the court. But, my client, gentlemen, we shall prove to you by the clearest and most respectable evidence, *was ignominiously and degradedly torn, dragged, and hustled out of a public court.*

But, gentlemen, this was not all ; what I have related to you occurred only at one time, on the 13th of January.

But again, after the lapse of a whole week, on the 20th of January, my client again attended at the Court House ; *and he was again on this day forcibly expelled by an armed body of policemen, at the orders of the defendant, who was likewise, at this time, sitting as a Special Justice.* He was not only expelled and forced out of the public Court ; but, by order of the defendant, *he was also detained and imprisoned.*

And, gentlemen, after a further lapse of a fortnight from this period, say on Tuesday, the 3rd February, we shall prove to you, that Mr. Sterne, having had occasion again to attend at the public Court House on business, *was again ignominiously and degradedly hustled from the public Court House,* by the Constable of the parish, at the defendant's orders.

These, gentlemen, are the facts of the case, for which I appeal to you this day, on the behalf of my client, and for which I claim at your hands a compensation in damages for the injuries he has sustained, and the expenses he has been put to in bringing this action.

M. SARFATY, Esq., was now called up, and sworn. He proved that Mr. M. M. Sollas, a particular witness, on behalf of the plaintiff, had quitted the Island.

Mr. ATTORNEY-GENERAL—*for the defendants, your*

Honor, we must see the notice of bringing this action before we can allow the case to be proceeded in.

CHIEF JUSTICE—Certainly, Mr. Attorney-general.

Mr. MIDDLETON—*Here it is your Honor, all in due form, properly served, in due time, on stamp, and sworn to, before a Commissioner of the Court.*

Mr. ATTORNEY-GENERAL—Here hand it to me, let me have a peep at it.

The NOTICE *was accordingly handed over to Mr. Attorney General, with the affidavit of service attached thereto.* (see copy of both at page 160.)

Mr. ATTORNEY-GENERAL—*I object to this notice, your Honor.*

CHIEF JUSTICE—*State your grounds, Mr. Attorney-General.*

Mr. ATTORNEY-GENERAL—*I object to the form of the notice, which has been served on the defendant, under the act of the Island.*

THE CHIEF—*There is nothing in your objection, Mr. Attorney-General, for the act itself has been disallowed.*

Mr. ATTORNEY-GENERAL—*But the act was in force at the time of bringing the action.*

THE CHIEF—*But there is nothing in your objection.*

Mr. ATTORNEY-GENERAL—*But the terms of the notice is too general. How is the magistrate to know what amends he is to make?*

THE CHIEF—*Hand me up the notice. The notice is handed up—the Chief reads. I see nothing in your objection, Mr. Attorney-General; the notice expressly states,* "for certain trespasses, committed in the months of January and February last;" *all you can do, therefore, is, to keep the plaintiff strictly confined to those two months, and not travel out of them.*

Mr. ATTORNEY-GENERAL—*Then I contend, your Honor, that that notice is not a sufficient evidence.*

THE CHIEF—*How so, Mr. Attorney-General?*

Mr. ATTORNEY-GENERAL—*Why, your honor, there is no proof of the service of such notice according to law.*

THE CHIEF—*Indeed there is, though; see here*—Reads—*Here is an affidavit of the service, sworn to before a Commissioner.*

Mr. ATTORNEY-GENERAL—*That wont do, your honor,*

we must have the best proof, and the best proof is the man himself, who served the notice.

THE CHIEF—*What, then, is the use of our appointing Commissioners for taking affidavits? Why, here is a man's solemn affidavit, and what more could be said or proved, if he were here himself?*

Mr. ATTORNEY-GENERAL—*Why, we could examine him in open Court, as to the fact of his having served it; he might have put the notice where my client could never see it; we do not admit that any notice has been served.*

THE CHIEF—*How can you argue thus, Mr. Attorney-General? The affidavit itself declares—reads—"that the deponent did personally serve Frederic White, the defendant, with the notice."*

Mr. ATTORNEY-GENERAL—*Then we object to the form of affidavit.*

THE CHIEF—*What is there objectionable in that?*

Mr. ATTORNEY-GENERAL—*We have no proof of Mr. Hall's being a Commissioner for taking affidavits?*

THE CHIEF—*The record of his being in the Commission is an ample and sufficient proof.*

Mr. ATTORNEY-GENERAL—*Yes, your honor, but for the Supreme Court only; and not for the Assize Courts. I contend Mr. Hall's Commission does not authorise him to take affidavits for the Assize Courts.*

THE CHIEF—*Such arguments are absurd and ridiculous, and we wonder at hearing such coming from you, Mr. Attorney-General; we all know that the Supreme Court is the fountain head, and this action could only have been maintained, by first going out, through the Supreme Court; we, therefore, consider the service of the notice quite sufficient to allow the trial to be proceeded with.*

Mr. MIDDLETON, having received the sanction of the court, now put in evidence, the examination of MOSES MENDES SOLLAS, Esquire, as, taken under a commission, DE BENESSE, as follows.

EXAMINANT saith he knew the plaintiff and defendant in this cause, in the month of January last, witness was at the court house at Buff Bay, thinks, about the 20th; the defendant was sitting on the Judgment seat, when the plaintiff entered the court house; the defendant immediately hailed out to him, asking him what he required there? the plaintiff replied nothing just now, sir, when defendant immediately ordered him to go

out of the court-house; the plaintiff said, he would not go out; *defendant then desired the police who were in attendance to lay hold of the plaintiff and put him out; two of the policemen, came up to him the plaintiff, and requested him to go out, which he declined;* they laid hold of him, and put him into the lobby; *the defendant hailed out to them, to put him outside the door* they did so; *a sale of the plaintiff's furniture was then going on in the lobby of the Court-house.*

The witness was proceeding to state what took place on another day, when the attorney for the defendant objected that the plaintiff could not give in evidence on his declaration, an alledged assault, committed on a subsequent day, forming, as he alledged, a distinct and separate trespass; question reserved for the consideration of the court by the commissioner, and examination allowed to be proceeded in.

Early in February, thinks about the 3rd, witness, his father, and defendant, were sitting in the Court-house, at Buff Bay: *defendant had no cause before him, nor was he sitting in the judgment seat;* the constable, Mr. Burgess, was present; whilst defendant, the witness, and his father, were in conversation, the plaintiff came in, leant on the rails of the Court-house; defendant immediately asked him what he wished there again in HIS court; *plaintiff replied, you are holding no court*, and I am at liberty to stop here as much as you are; defendant immediately ordered the constable to put him out of his court, the constable went up to the plaintiff, and requested him to walk out; plaintiff declined to do so; defendant seeing this, told the constable to put him out, he had the Governor's authority, he said for so doing, and he would bear him, the constable, harmless; the constable then turned the plaintiff out into the lobby; witness is interested as the friend of both the plaintiff and defendant; the defendant, after he was served with notice of this action in the early part of April, applied to witness, and witness's father, and asked what he should do; witness recommended a compromise, defendant agreed, and authorized witness and witness's father to apply to the plaintiff on the subject; witness did so, and found the plaintiff satisfied to receive a letter of apology from the defendant; this the witness reported to defendant, who was perfectly willing, *provided it was not made public*, witness assured defendant he should have that stipulated and that the letter should be couched in mild terms of regret; *witness saw plaintiff subsequently, who agreed to the terms*, the defendant then fixed on a day to meet witness and witness's father, for the purpose of signing the letter; *the defendant did not meet the witness on the day appointed, for the purpose of signing the letter, which was the Monday before the last day of summoning for the last court: this fact, witness communicated*

to the plaintiff, who thereupon indignantly saidhe would immediately proceed to town, and have the action issued.

CROSS-EXAMINED BY DEFENDANT'S COUNSEL.

Defendant was holding a Court as Special Justice on the 20th January, at the time referred to in his examination in chief. A great many persons were in the Court-house, besides apprentices; does not think the plaintiff had been in the Court-house on that morning; before witness was merely a casual spectator, and entered about the same time as the plaintiff. *The conduct of the plaintiff was mild and gentlemanly; witness believes that the defendant knew that a sale of the defendant's property was going on there*; witness does not think that that influenced the defendant in ordering the plaintiff out of the lobby. Witness says *that no court had been held on the morning of the 3rd of February*, at the time spoken to in the examination in chief, or previous on that day; witness says no other person was present on the day, at the time spoken to in the examination in chief, besides the persons mentioned in the examination in chief. *The letter of* APOLOGY *was never written, because the defendant did not come down to form the letter*, ACCORDING TO THE ARRANGEMENT.

TAKEN *and sworn to, before me, this 14th day of August*, 1835.

J. WALLACE HARRIS,

Per Commission.

DAVID MENDES SOLLAS, Esq., sworn,—Was not in Saint George's, in January, but was in the Court-House on 3rd February; *there was no Court held on that day*; Mr. White, himself, witness's son, and Mr. Burgess, the constable, were present, and saw *Sterne come in very respectfully*; the moment he got to the bar, White said, "Do you want any thing with me?' Sterne said, "Not immediately, your Worship." Then said White, "I desire you to go out immediately." Sterne remained, when White called out to Burgess, and said, "*Turn him out—turn him out immediately; I will bear you harmless.*" Burgess requested Sterne to go out, when Sterne said, "He had business with the Magistrates, and would not go out. White again desired Burgess to turn him out; he said, take *him out bodily. Burgess did so; Mr. White swore*; the Special Magistrates held no Court that day; it was a Tuesday.

Cross-examined by Mr. PANTON—Mr. Sterne makes a habit of attending the Courts: has heard him speak of making a report of the proceedings.

Mr. MIDDLETON objected to the course of examination.

Mr. PANTON—Surely, I have a right to show the *animus* of Mr. Sterne.

THE CHIEF—Such evidence might go in mitigation of damages. The plaintiff might have been in the habit of interfering with the proceedings of courts.

Examination continued—Mr. White accused plaintiff of writing to the Governor, complaining of his conduct. Mr. Sterne said, in consequence of White's conduct, he would report him to the Governor. *Never heard Sterne say, he had been employed by a party.*

EDWARD EUSTACE FISHBOURNE, Esq., (*a Special Justice*) sworn—Was in the Court-house at Buff Bay *on the* 13th *of January*, Mr. White was presiding; Mr. Sterne came in, and addressed himself to Mr. White concerning the previous trial: White said he would not allow his decisions to be interfered with; *witness does not think Sterne's manner was disrespectful. White then ordered Sterne to go out*; he did not, and he ordered the police to turn him out; *and he was accordingly turned out by the police*; somebody said something about reporting White to the Governor; *witness believes it was Mr. White*; Sterne answered, you may depend upon it I will; he said this while the police were taking him out; does not remember hearing White ask Sterne what he wanted there; the police took him (Sterne) out; does not remember if the police had drawn swords; it was the first time he took his seat as a Special Magistrate; he was much alarmed and surprised at the noise which prevailed in Court—heard swearing in Court.

Cross-examined by Mr. Panton.—Saw Mr. Sterne again that day in Court-house; White was there; White asked Sterne what he was doing there, does not think Sterne answered; White then ordered him out, and the police took him out; *believes there was swearing on the part of White;* there was nothing unusual in the dress of the police that day; has often seen Sterne in his court, with pen, ink and paper, and law books, taking notes; there was an interruption of the proceedings in consequence of Sterne's application; the altercation lasted about five minutes; the cause was suspended until Sterne was removed *Mr. White made more row in court than any one else.*

EDWARD COOPER BURGESS, sworn.—Is a constable of St. George's, was at Buff Bay Court-house *on the* 13*th January*; remembers plaintiff coming into court with Mrs. Sterne, and his apprentice David Clarke; Mrs. Sterne was summoned there by Mr. White, on behalf of Clarke; Mrs. Sterne commenced giving her evidence, but did not conclude, because *she was*

interrupted by Mr. White ; Sterne said she was summoned there and ought to be heard, *nothing else* ; White said his mind was made up to have Clarke committed, who had complained against one of Miss Matthews's apprentices ; White then said you may write to the King's House again if you think proper, *and ordered Sterne to be put out, and he was put out by some of the police, Sterne's manner was perfectly respectful* ; *White said Sterne was a dangerous character ;* Sterne returned to the Court-house a second time in about a quarter of an hour ; White then called out in a very abrupt manner, *to have Sterne kept out* ; *he was turned out a second time.*

White swore that day whilst he was on the bench ; *was quite violent ; Sterne's manner was perfectly respectful, no interruption of the proceedings, except when White was speaking in that violent manner.*

Was present *on the 20th ;* was selling Sterne's furniture ; saw Sterne come into the Court-house. Mr. White was there ; can't say if he was on the bench, nor if any case was brought before him. *Directly Sterne came in, he ordered him out ; and White said he would not allow him to come into any of his courts.* He was taken to where his furniture was selling, and *White ordered the police to turn him quite out—he was put out into the street, and kept out. Sterne had not been doing any thing.*

On the 3rd of February White was there, and Sterne ; there was nothing before him, but he sat down and took a seat. There were no police there that day ; when Sterne came into Court, *White told witness to turn him out ; do your duty, sir ; turn him out ; I will bear you harmless ; and told witness not to allow Sterne to come in on any occasion. White said he had the Governor's authority ; witness turned him out.*

White's conduct had a very ill effect against plaintiff, witness was himself shy of him, he was shunned by every one. White taxed Sterne on the first day that he had reported him to the Governor ; *Sterne denied that he had ever done so,* but said he would then ; does not know what the two Mr. Sollas's went there for.

DAVID MENDES SOLLAS, *recalled.—Mr. White said he had the Governor's directions to turn out Sterne ; witness is a friend of both parties, and wished to avoid the institution of the present proceedings* ; Mr. White afterwards denied his declaration about the Governor ; never heard Sterne speak disrespectfully of White, knows of no disturbance caused by Mr. Sterne's conduct in court.

Here the case for the prosecution closed.

Mr. PANTON, for the defendant, now addressed the jury at length, as to his defence; he commented upon the evidence and ridiculed Mr. Sterne's interruption of the proceedings of the court; he said his learned friend: Mr. Middleton, when he sat out, dwelt much upon the violent and oppressive conduct of Mr. White, arising from a prejudice, for which he could give no reason; a lurking prejudice, but Sterne was the first who was guilty of interruption, Sterne threatened to report White; he bearded White upon the bench, he set his authority at defiance; Fishburne only came into court just before Sterne's return the second time, White's general tone was loud, but he should now proceed to call his witnesses for the defence.

ROBERT DUNBAR, *Clerk of the Peace, was sworn.—Was present on the 13th, not attending to the trial.* his attention was called off afterwards, by the high tone of Sterne's voice, complaining of the decision of the special, considered his manner to be very disrespectful: Mr. White said he would not allow his decision to be interfered with, *both were noisy, and White ordered Sterne out;* Mr. White always spoke loud, even in private conversations; his tone of voice was not louder than usual, *Sterne made repeated applications to White for release of a negro; White said I refuse the application;* Sterne said he would report him to a higher tribunal, to the Governor: White said you have already done so, and you may do so again: *Sterne said he had not done so,* and Sterne said he would watch his proceedings, White said, I shall endeavour to administer justice, and you may do what you please.

On the 20th, Sterne came into court, and was leaning against the bar rails; White asked him if he had any business to bring before him; Sterne said no; White then said, leave the court: Sterne declined, whereupon *White ordered the policemen to take him out,* he might have been slightly touched.

Sterne usually comes and takes notes; when Sterne came back on the 18th; the court was still sitting; Sterne was not turned out the second time on the 13th; White said, be off, be off: witness was engaged this time; *Sterne might have been turned out; is not on good terms with Sterne! Sterne is almost always present on public days with pen and paper, and sometimes with books;* he gives the magistrates trouble; he frequently gives advice to the bench; there is an intimacy between Sterne and Sollas; Sterne's conduct was very disrespectful to the magistrates.

Cross-examined by Mr. MIDDLETON—*Witness was drawing a petty summons;* Sterne first complained of the decision of the Special Justice; Sterne said the decision of the bench was unjust; his demeanour was disrespectful to the court: did not tell

Sterne that he had not observed any part of the proceedings: *all that he told Sterne was, that he was so busy that he had not attended to the merits of the trial; witness is not on good terms with Sterne; he is with White.*

WILLIAM HOSSACK, Esq., sworn (*is a brother-in-law of Mr. Bell's*) was present on the 13th of January in Court. Mr. White was presiding as a Special Magistrate: the plaintiff was also in attendance: he was connected with the case: Sterne addressed White "your Worship," he was dissatisfied with the decision; his demeanour was disrespectful, does not remember what words Sterne used, thinks he meant to say the decision was not a *fair* one; White said Sterne might report him if he pleased, Sterne said he would; *White was speaking louder than Sterne, did not hear Sterne say any thing more;* White ordered him out, the police took Sterne out: does not recollect Mrs. Sterne being examined: *Mrs. Sterne was sworn;* Sterne was being taken out, when he said he would report White.

JOHN NETHERSOLE, Esq., sworn—*Is the agent of both parties;* the matter at issue has been related to him by both parties: both parties had written him letters connected with the matter. He had been appointed by both parties to arrange matters; Sterne had told him, Nethersole, that he had told White, in Court. that he had not done justice. White wrote to him, that he understood Sterne was going to send him an action: and requested him to do what was necessary: Sterne said he would be satisfied, if White would merely express his regret; there was no agreement to write a letter for publication; *White agreed to write the letter; the letter was never written;* Sterne first said he wished to have the letter published: *Sterne wanted to have the letter shewn to the Governor;* Sterne distinctly agreed to an apology, which was not to be shewn to the Governor. The proposed arrangement to compromise was made by witness, and he denies that the publication of any letter of apology was fixed on; *all that was agreed on was, that it should be referred to Mr. Sarfaty and Mr. Silva, and whatever they determined, Mr. White would be ready to fulfil.* It was agreed that Mr. White should express his regret through Mr. Nethersole, with which Sterne was to be satisfied: Sterne, however, went to the north side, broke off the arrangement, and appointed new agents.

Mr. ATTORNEY-GENERAL, addressed the jury, he hoped that after the evidence they had just now heard, from so respectable a character as Mr Nethersole, that they would freely acquit his client: the matter had been left wholly to Mr. Nethersole by both parties to arrange, and his client, Mr. White, was perfectly willing to abide by Mr. Nethersole's decision, but instead of which, the plaintiff had flown off from all such proposed arrangement altogether, and now, gentlemen,

he comes before you for damages, and what damages can you give him? What injury has he sustained? Only look to the evidence, gentlemen, adduced against him : he told the court that its decision was unjust; this alone, gentlemen, was sufficient to raise the passions of the Judge, and to expel him from his court. What could possibly be a greater insult, nay, the grossest of insults, to beard the Judge upon the bench, to set his authority at defiance, to threaten to report him, to enter his court with pens, ink, and paper, to take notes, to carry in law books, and in every respect to attempt to intimidate him. Nay, gentlemen, my learned opponent will by and by tell you, that White's having agreed to a compromise, may be said to be a tacit acknowledgment of his guilt, but, gentlemen, look to the evidence, the plaintiff's attempts to chain down the bench, by intimidation, the reports made by Sterne were the first cause of offence : Mr. White, gentlemen, is an injured man; he has fought and bled for his country: he has lately been dismissed from his magisterial office, and, gentlemen, if you give a verdict against him, he will be ruined : he has nothing but his half-pay to depend upon, and has a family to support; therefore, gentlemen, trusting that you will take all these things into consideration. I leave the case in your hands.

Mr. MIDDLETON, *now, in a very able manner replied, he entreated the jury to review the evidence, as adduced before them, and, notwithstanding the eloquence of his two learned friends, and the strong muster of their forces, he hoped that they, the jury, were fully satisfied that the plaintiff was a deeply injured man :—the evidence of the defendant's own witnesses, proved the facts of the trespass beyond a doubt, and their only plea was, that the plaintiff had agreed to a compromise, which the defendant was ready to give, but afterwards broke off the arrangement; but now, gentlemen, look for one moment at Mr. Nethersole's evidence on this head; he says that Sterne first wanted a letter of apology to be published, this not being agreed upon, he next wanted one to shew to the Governor, and at length, distinctly agreed to an apology, which was not to be shewn to the Governor, or any one else; now, gentlemen I ask you, does it sound feasible, that Sterne, who had received such gross ill-treatment, and had been so indignantly treated before the eyes of all his respectable parishioners, should now agree to accept of an apology, which was to have been put into his pocket, and made no manner of use to him; I am sure, gentlemen, you will not give credence to such evidence for a single moment; for my part I should say, Mr. Sterne would have been mad to have accepted such; and what more have they proven? Why they have attempted to shew you, that Sterne was*

highly disrespectful to the Judge; that he threatened to report him, &c., that he is in the habit of entering the court with pens, ink, and paper, and even carries law books under his arm for the purpose of intimidating the bench; but, gentlemen, look to the facts, look to the proof. Mr. M. M. Sollas, in his evidence, taken DEBENESSE, *directly swears to two distinct days of assault, and declares "that the conduct of the plaintiff was mild and gentlemanly," that he had been solicited by the defendant, after he had had notice of the intended action from Sterne, to interfere, and, if possible, to effect a compromise; that he had made an arrangement for such compromise, to which both plaintiff and defendant had agreed, but that such arrangement had been broken up by the defendant himself. Gentlemen, I must say, for myself, that such patience and forbearance as was evinced on the part of the plaintiff, under such insults and indignities, I could not have shewn; then, gentlemen, we come to Mr. Sollas, senior, who deposes to the same effect, corroborating fully, that the conduct of the plaintiff was perfectly respectful,—nay, he says, very respectful; yet, notwithstanding, White swears and blusters out, "turn him out, turn him out," and because the constable was diffident in obeying the order, seeing that Sterne had done nothing to cause such offence, but was there in a public court, where, both you and I, have every right, and full liberty to go, and was withal perfectly respectful, White tells the constable, with an oath, "I will bear you harmless, I have the Governor's authority to keep him out." Thus, gentlemen, under colour of this powerful authority, is Mr. Sterne ignominiously excluded from entering into a public court of justice. We now, gentlemen, come to Mr. Fishburn's evidence; this gentleman is a special justice, the same as Mr. White was—nay, gentlemen, he sat upon the bench with Mr. White, and if Mr. Sterne had behaved himself disrespectfully at all, he must have done so to both of them; but what says Mr. Fishburn? Why, gentlemen, he says, "he does not think that Sterne's manner was disrespectful," but in other words, that it was perfectly respectful; that White swore from the bench, and, that, Mr. White made more row in court than any one else did, and clearly proves the assault and trespass committed by the defendant on the plaintiff, on the 13th—for says he, "White ordered the police to put Sterne out, and the police obeyed the order, and Sterne was, most disgracefully, dragged and hustled out of that court, which it is the boast of British laws, shall be freely open to all. We now, gentlemen, come to Mr. Burgess's evidence, which is the last that we thought at all necessary to produce before you, although we have got others in court, that could have spoken all to the same effect. This evidence, gentlemen, clearly proves every case of trespass*

that we charge the defendant with; he was present on the 13th of January; that Sterne appeared in court that day, with his wife, in consequence of her having been summoned there by the defendant, in his character as a special justice; that Sterne was perfectly respectful; that White had committed an apprentice of his to prison, who was a complainant in a case, and not a party complained against, but Mr. White had no earthly power, or right to commit him; but Burgess proves to you that he did commit him, and that all Mr. Sterne did, was in a most respectful and becoming manner, to remonstrate with White against (I say) *so unjust a decision; nay, he solicited the Judge, but his solicitations were in vain. Mr. Sterne instead of getting anything like redress from the Judge, or a remittal of the unjustifiable sentence against his innocent apprentice, was taunted and vilified, by the defendant from the bench; represented to his fellow parishioners as a spy, and, consequently, pointed out as a person of dangerous character, ; was threatened to be committed, like a felon, to the workhouse, and put alongside of his innocent apprentice, who was actually incarcerated in irons, and immediately put to hard labour; and finally, as I have before said, was ignominiously dragged, hustled, and put out of the public court-house, and this monstrous conduct was carried on—it was not the ebulition of a moment, but the firmly fixed, and deeply rooted hatred of a malicious and revengeful spirit. The same witness goes on to prove, that on the 20th, he, witness, as constable, was in the lobby of the court-house, selling some of Sterne's furniture, which had been put up for public sale, under a distress warrant* (for the particulars, see page 89), *that the plaintiff entered the Court-house amongst numerous others, was perfectly respectful, but was nevertheless ordered out of Court by Mr. White, and, because he did not immediately comply, and like a felon walk out, the defendant swore to the armed police, who were then in attendance, and who were at this time made again, most ignominiously, and degradedly, to seize hold of Sterne, and, before the eyes of his fellow parishioners, to drag and hustle him out of the court; having dragged him from the court-house; into the lobby, where his furniture was being sold, they let him go; but this would not do for Mr. White, who was still seated on the bench looking on; as soon as he noticed them let him go, he swore out again from the bench to the police, and ordered them to take him quite out; put the damned fellow out in the street, says he, he shall not be under the roof; and there you keep him, and not suffer him to come back; the police did so, gentlemen, and Sterne was by them, thus kept out in the street, during the time his furniture was being sold, and which he waited to see the result of. Thus, gentlemen, I clearly prove to you the*

trespass of imprisonment; for though Sterne was not actually put into a prison, yet, in the eye of the law, being kept forcibly from going whithersoever he wanted, he was, for such time that he was so kept actually imprisoned, and in this way you must view it, and grant him damages accordingly. We further follow up this witness in his evidence to the 3rd of February; and there we find him corroborating the two Mr. Sollas's evidence which I have already commented on. It will be almost needless for me to go through the evidence of the defendant's witnesses; yet, gentlemen, as both of my learned friends have said so much in praise thereof, I must say something to answer them. Mr. Panton has attempted to represent Mr. Sterne as a spy; that he is in the habit of going to the Court-house, with pens, ink, and paper, and even with law books, and thereby bearded the bench, and set its authority at defiance. Gentlemen, need I point out to you, that a British Court of Justice is freely open to every one, and I leave it to his Honor, now sitting, to gainsay what I now assure you to be fact; it is the proud boast of our laws, gentlemen, that none shall be excluded from her courts, and no power, no authority, no judge—nay, the King himself, cannot single out any for exclusion so long as that person behaves with respect therein; as well might his honor, now sitting, attempt to turn out any one of the peaceable spectators now at the bar. Of this fact you may be well assured, that Mr. White had no such power, as to exclude Mr. Sterne from his court; and then, gentlemen, so, because Mr. Sterne, a respectable inhabitant of St. George's, interested in the welfare of his parishioners, anxious to see and ascertain for himself, that the laws are fairly and duly administered in his parish, he employs himself on public occasions by taking notes, he is now to be held up to you as a spy. Why, gentlemen, were it not for men equally as anxious to watch over the rights of their fellow-subjects as Mr. Sterne is represented to you to have done; what would not have been the state and condition of our public courts of justice? Why, gentlemen, I know, and can assure you, for I speak myself of my own knowledge, that in England there are many respectable young barristers, who constantly practice it, who make it a rule to report all the trials and decisions of the courts, and by such openly exposed publicity, are our courts kept from tyranny, and arbitrary rule—so that, gentlemen, I am, for myself, more inclined to look upon Mr. Sterne as a valuable parishioner and a useful member of the community, by lending his aid to enforce the due administration of the laws in that part of the country, where he is a respectable residenter. I will not trespass further upon your patience, but intreat that you will do my client ample justice by your verdict,

Mr. NETHERSOLE, who still remained in court, appealed to the bench, against the insinuations thrown out by Mr. Middleton against his evidence.

Mr MIDDLETON declared that he meant nothing offensive.

THE CHIEF JUSTICE, SIR JOSHUA ROWE, *now summed up. He gave it as his opinion, that two charges had been negatived by the defendant, but that the third remained uncontradicted.* He recapitulated his notes of the evidence taken, and commented, more or less, upon each of the witnesses' testimony. On reviewing that of Mr. Fishburne's, His Honor stated, that this gentleman, being himself a Special Justice, and an associate with the defendent on the bench, on the 18th of January, when one of the assaults was committed upon the person of the plaintiff, was better able to judge of the state of things than any of the other witnesses; consequently, his evidence ought to weigh much upon the minds of the jury, and that by it did appear, as well as by the testimony of all the others of the Plaintiff's witnesses, that the Plaintiff had conducted himself in a very becoming manner. He also bore testimony against the defendant who, it would appear, was in the habit of swearing from the bench: this, he was bound to notice, was highly reprehensible in any one, as it tended to lower and bring into disrepute the high and responsible office of a Judge. That a trespass had been committed upon the plaintiff, was beyond a doubt, for he was bound, as a Judge, to inform the Jury, that neither Mr. White nor any other Judge had the power to exclude whomsoever he pleased from his court. He found himself bound, in conjunction with Mr. Middleton, who had already addressed them on the subject, to say, that all courts of justice were open courts, and that whosoever chose may enter freely, and remain there as long as the court remained open, provided they conducted themselves with propriety. *The testimony of Mr. Sollas Jun. taken, de benesse, was certainly very favourable to the plaintiff, but when Mr. Nethersole's evidence was brought before them, as a rebutter, it prevented him from commenting to them thereon*; and now, Gentlemen, on looking at *the testimony of Mr. Dunbar*, it will be seen, that the plaintiff had given great cause of offence; he was in the habit of going to the court, and taking notes; of boasting that he went there to watch the proceedings of the court, and that he had, in fact, told the defendant, while seated as a Judge, *that his decision was unjust, meaning that he was a corrupt Judge.* Gentlemen, nothing could be a greater insult—nay, the grossest insult possible: what, to tell a Judge, in his seat, that he was a corrupt Judge, that his decisions were unjust, would be more than could be pardonable. *You have the evidence of Mr. Nethersole to support this*

fact, for he states that, the plaintiff himself had admitted to him, that he had used such words to the defendant in court. And now, Gentlemen, having fairly reviewed all the evidence as adduced before you, the court feels itself bound to say, you will have to find a verdict for the plaintiff, but the quantum of damages is left entirely to your discretion, to decide upon.

The jury retired, but as they could not agree in their verdict, they were locked up.

THURSDAY, 20th AUGUST, 1835.

STERNE, V. WHITE,

On the opening of the court this morning, the Jury, who were confined at the adjournment of the court yesterday, being in their places, delivered their verdict, *finding for the plaintiff, damages, £103 6s. 8d., with costs.*

Mr. PANTON *gave notice of a motion for a new trial, to be argued in the Grand Court.*

THE CHIEF—*Pray Mr. Panton, upon what grounds do you give such a notice?*

Mr. PANTON—*On account of excessive damages, your honor.*

THE CHIEF—*The court differs from you in opinion, Mr. Panton, and we think you had better withdraw your notice.*

FRIDAY, 21st AUGUST, 1835.

The court met at an unusual early hour this morning—say at eight o'clock, in consequence of an adjourned trial the evening before, viz. BRENNAN, *v.* DUBURGH; it so happened that my solicitors, Messrs. Mowat and Read, were the conductors of this cause, and the counsel employed, were the same as conducted my cause, *Sterne, v. White.* It also happened that I myself had a cause still untried, and remaining at issue for trial in that court viz. *Sterne, v. Swire, andothers,* consequently being so interested, I attended early at the court. Shortly after 8 o'clock, the court being formed, and his Honor having taken his seat.

His Honor arose, and stated, that seeing all the parties in court interested, or connected, in the case of STERNE, v. WHITE, in which case Mr. Panton having moved yesterday for a new trial, he now begged leave to observe, that upon his look-

ing over his notes and reviewing the minutes of the case, he noticed that he had omitted to comment to the jury on the evidence of Mr. Nethersole, one of the defendant's witnesses, which evidence, had it at first been put on record, would have been a complete bar to the action, and on account of such omission on his part, he thought it sufficient grounds to grant a new trial, and accordingly ordered the clerk of the court to enter on the record. A NEW TRIAL GRANTED, which was forthwith complied with.

It is necessary here to make a few observations before proceeding further, in order to throw the clearest light possible on the whole subject, before my readers.

On the morning of *Thursday, the 20th*, myself and D. M. Sollas, Esquire, who still remained in town, being a witness subpœnaed by me in my other action then pending, of Sterne, *v*, Swire, and others, had the following understanding together.

That in consequence of its being fully in my power, owing to the large amount of damages granted to me by the jury, of showing publicly, that my action against the late Special Justice White, was instigated from principles of honour, and a pure wish to work thereby a public good. And further, that the same honourable feeling was the ground work that actuated both Mr. Sollas and his son, in so valiantly sticking by me as they did, throughout the whole of my differences with the Saint George's Daniels ; and that I was not neither actuated by malice or selfish motives in seeking redress by an action of damages. It was finally fixed and agreed upon this evening by us.

That D. M. Sollas, Esq., as my friend, and still the mutual friends of Special Justice White, as well as myself, who had been long before deputed by us, in conjunction with his son, Mr. M. M. Sollas, to bring about, if possible, an honourable reconciliation (*and not* Mr. JOHN NETHERSOLE, *who had most truly been the cause of preventing such amicable and honorable adjustment of our differences, and thereby bringing about this mischief and public exposure of his friend, Mr. White*) should in the morning,—say *Friday, the 21st*—between 10 and 12 o'clock, wait upon Mr. John Nethersole, and state, that, with my permission, he, as the mutual friend of both parties, was to acquaint him, Mr. John Nethersole, that if he would still procure the letter of apology from Mr. White, which he, Nethersole, had asserted in Court, that White was ready to give (*but had not done so*) and to hand it over to him, Mr. Sollas, as my friend, that he would, on my part, hand him over an immediate satisfaction, to be entered on the record against my judgment, thereby, of my own free will and accord at once relinquish-

ing every fraction of claim as to the damages granted to me by the Jury, and leaving to Mr. White only to pay the costs, such as the Court might have awarded to me in the then ensuing Grand Court.

The morning of *Friday, the* 21st, *came.* The Court came at an unusually early hour—say 8 o'clock, (for particulars, see page 182,) and had immediately, on the opening of the Court, made public its decision of granting a new trial, in Sterne *v.* White. This decision, of course, being the general topic of that morning's discourse, spread like wild-fire throughout the town, and was the first bit of news Mr. Sollas heard after leaving his breakfast-table ; in consequence of which, instead of proceeding at once to Mr. John Nethersole, as had been agreed upon the previous night by us, he proceeded at once to the *Dispatch* Newspaper office, to enquire of its Editor, Mr. Bruce, if such report was correct. Having understood from him that such was, indeed, true, he mentioned to Mr. Bruce the intended arrangement made by us, on the previous evening, suggesting now, that he supposed an amicable adjustment of our differences could not, or would not now, be effected. Mr. Bruce, though no friend of mine, was truly a friend of Mr. White's, and expressed his deep regret that such a desirable object was now likely to be frustrated, insinuating that he was quite astonished at the honourable stand I had proposed, and that if I carried it it into effect, it should not pass unnoticed by him in his paper.

Mr. Sollas now left him in search of me, and when we met, we both agreed, that it would now be useless attemping to carry the proposed arrangement into effect, as it would be doing away with the real effect I had hoped to have produced, and that it would have been generally said, that I had been compelled to offer such an arrangment, *in consequence of the Chief Justice's granting a new trial, and not that it had proceeded from me through motives of honour, consequently Mr. Sollas never waited upon Mr. John Nethersole*, although the report of the intention was generally circulated.

It was on the morning of the 22nd, *that the conversation took place between myself and Mr. Attorney-general, alluded to by me, in my affidavit laid before the court in January,* 1836.

Matters remained thus, until the early part of November, when I happened to be in Kingston, and having called upon Mr. John Nethersole, on matters of business, a conversation ensued about this affair of mine with White, and I then taxed him with his being the cause of its not having been amicably adjusted long ago, and then stated the arrangement that had been entered into, by Mr. Sollas and myself, immediately after the trial in

August, but which we did not deem advisable to carry into effect *after the decision of the Chief Justice in granting a new trial.*

At this time, too, I was much pressed for want of money, the premium of bills being low, and money scarce; and he, Nethersole, having been my only agent in Kingston, for the time I had been in business—say 10 or 12 years—and, consequently, better acquainted with my affairs than any one else. I became urgent on him to negociate a bill: *He resolutely took his stand, that he would do no more business with me, as long as I remained at law with Mr. White, and the magistrates of Saint George's;* and I, on my part, determining to keep that a point of honour for the public good, and not allow the consideration of lucrative points in business to actuate my decisions in that way. I was willing to make great sacrifices to obtain my end as to money matters; but was quite unwilling to compromise my honour, and the public good.

I offered to sell Mr. John Nethersole a bill for one thousand pounds, sterling at par, so as to get money, bills being at the time 17½ per cent. prem., thus sacrificing £175: but even this liberal offer he would not accept, or listen to—*neither would he hand me over the monies then due me, for produce consigned to his friends in England. I say due, because both himself, as well as me, had got the quotation of the prices of the sales effected, although we had not as yet got the actual account sales themselves, which, from some oversight of the parties in England, were not sent out for some months afterwards.*

During this conversation, *Mr. Nethersole suggested that the affair should be left to the arbitration of two mutual friends, and whatsoever they decided upon, should be conclusive.* Mr. White having at this period quitted the Island, he, Mr. John Nethersole, was to represent him. I said, "Well, with all my heart, I would consent to such;" naming Thomas Onn, Esq., and Dr. Maxwell, both of whom are residenters and magistrates of St. George's, and both are mutual friends of myself and Mr. White; Dr. Maxwell being particularly the friend of Mr. White, he having, with Mr. Sollas, sen., headed the subscription list for a piece of plate for Mr. White, and otherwise interested himself considerably in the collection of the subscriptions. It also so happened, that Dr. Maxwell was himself in Kingston at this time, boarding at the same lodging-house as myself; so I mentioned to Mr. Nethersole that, on my return to the lodgings, I would name it to the Doctor, and, if possible, get him to step down with me to his store. Accordingly, on my return to the lodgings, *I communicated the proposals to the Doctor, who, always willing and ready to do a good act, at once entered into our views, and agreed to accompany me to Mr. John Nether-*

sole's. He started one objection, however, which was, that, as he considered himself the friend of both parties—viz., myself and Mr. White—he wished we would nominate some one else, and, if it needed an umpire, that then he should, or would readily, step in as such. Having overcome this scruple on his part, he now accompanied me to Mr. John Nethersole; and, on talking over the matter together, *the final question was put by the Doctor to Nethersole, which was, "That, providing it went to arbitration,* (which was, to decide as to the costs only, for the point of damages I agreed to give over,) *and the arbitrators decided as to the amount of costs—would he, Nethersole, then pay for White such amount, and so settle the matter in toto. To this, Nethersole replied, "That he could not—that he held no monies for Mr. White; and, moreover, that White had left the Island in his debt, and he had no idea of causing the debt to be made larger."* At this, both the Doctor and myself immediately said, then, of course, nothing can be done; it is useless to submit the thing to arbitration: and we then left Mr. John Nethersole. The Doctor, I must say, used all the persuasion he was master of, to get me to drop all further proceedings; advising me to pocket the present expense, and not go on incurring more; assuring me, that both himself and all other friends, were well assured *that I had been most shamefully treated.* But, however, the Doctor did not know the origin, and the whole of the mischief incurred.

The January assizes now began to come round, and, about a week or ten days before the commencement of that court, I went to Kingston, to get all my subpœneas for my witnesses; amongst the number I had named the Marquis of Sligo, and Mr. Nunes, his Secretary—thinking thereby, to get some very stout facts brought before the jury. Mr. Mowat, my Solicitor, was quite against it, saying, it would injure my cause; but I contended, injure or not, my object would be obtained; Mr. Mowat accordingly recommended me to consult counsel about it, whom he said, he was sure would not advise such a step; I asserting that I would act for myself, and plead my own cause, if necessary; I cared nothing about the Governor. I and my family could live without him, and I would not attempt to screen him in a cause where he deserved such exposure,

Accordingly Mr. Mowat accompanied me to counsellor Middleton's chambers, and there, before him, joked me with my going to turn barrister and wishing to plead my own cause; and then said, well, Middleton, what do you think, Sterne will have it, that he knows more about the case than either the Chief Justice or yourself: *well, said I, if it comes to that, I will maintain that the Chief erred in his decision, upon Mr. John Nethersole's evidence; and he had no right whatever to grant*

this new trial; Mowat laughed, but Middleton was serious. Well, I observed to Mr. Middleton, have you looked well at the law on this point. He said he had not, then says Mowat, you have the act, pray do turn it up to satisfy Sterne. This he accordingly did, and no sooner had he looked over the act, and read the three clauses refering to the point (see page 159) than he ejaculated, *Sterne is right; why did you not put this into my hand at the trial, I would have shown the Chief at once that he was in error.* I observed, well that is pretty to be sure, for me, an humble individual and suitor, to shew law to the counsel! Oh but says Mr. Middleton, this is an entire new act, and I had not seen it: so I was compelled to be satisfied with the knowledge *that the Chief Justice, had erred at my expence in granting this new trial;* for Mr. Middleton continued to observe—see here, had you only shewn me this act, I would have saved you all this delay, anxiety and expence in bringing this new trial.

It was determined upon, that the Governor should not be summoned, but that Mr. Nunes his Secretary, should, and having got all my subpœnas prepared, I returned to St. George's, and served all my witnesses to the number of twelve as follows.

1. W. G. Nunes,	with a *duces te cum.*	7, Dr. J. Maxwell,
2. The Hon. J. Bell,		8. J. E. Anderson,
3. Ed. E. Fishburne,	A Sp. Justice.	9. Robert Hutton,
4. Henry Burge,		10. Moses Sarfaty,
5. D. M. Sollas,		11. Moses G. Silva,
6. M. M. Sollas,		12. E. C Burgess,

The January assizes now arrived. I got to Kingston on the Saturday previous to the first Monday of the court, on purpose to again consult with counsel, about the new trial; on this day, which was *the 9th day of January* 1836, I waited upon Mr. Middleton with my brief, and tendered him a doubloon or £5. 6s. 8d. with it; but he refused to take the money, saying, put it in your pocket, *you have suffered in this affair already, and I wish it was over for your sake*; come, I will tell you what we will do, *there will be no need of witnesses, for there will be no trial; send them home, and notice the defendant's attorney, that he may do the same*, and I will move as the first thing in court on Monday morning, that your verdict be entered up, as granted to you by the jury. What, Sir, say I (*remembering the vindictive feelings of the Chief Justice towards me*), risk such a thing as that, after I have already gone to such a heavy expence, to bring up my witnesses, I cannot think of it. Well, replied Mr. Middleton, if you will be advised by me, you will immediately attend to what I say, *and I will secure you your verdict*; still doubting, I said I could not risk it. Then said he, *you will have to regret it, for there was no new trial granted.* What, Sir, I

replied, quite astonished, *no new trial granted?* No, he said, you will find when the case is moved, *that the Chief will deny his ever having granted one;* he could not, under the act, and therefore there is some mistake in it. Why, Sir, I replied, *I will be sworn that he did,* I heard him with my own ears, and so did many others; *nay the clerk of the court entered it upon the record by Sir Joshua Rowe's own positive orders,* and I will shew you the record, or a copy of it. With that I left him, and hastened to Mr, Mowat's office, to whom I communicated what had passed between myself and Mr. Middleton. *Mr. Mowat was for a moment shocked,* aye, he says, there is something in this; *not granted a new trial, I will be upon my oath, that he did,* and here it is, in the clerk of the courts own hand writing, but come along with me—with that he took up his hat, and off we both went to Mr Middleton As we entered, Mr. Mowat said, why, Mr. Middleton, what is all this you have been telling Sterne, that the Chief Justice did not grant a new trial in Sterne, *v.* White? No said Mr. Middleton, he did not grant one; he only observed something as to allowing it to be argued. *No Sir, said Mr. Mowat, I will be on my oath, that he granted a new trial,* in as distinct words as ever he spoke in his life; and what is more, *here is the record of a new trial, granted, written, as Mr. M. Cullough says by the Chief's own positive orders; so that there could be no mistake,* well well says Mr, Middleton, I only advise Sterne for the best; there will be no new trial, leave it to me, and on Monday morning, the first thing in court I will move that the judgment be recorded up for him, as granted by the jury. Very well, says Mr. Mowat, you are our counsel you know best; we leave it all to you.

Monday came, which was *the 11th of January;* the court opened, and, as soon as it came round to Mr. Middleton's turn, he moved His Honor, the Chief, *that the verdict of the Jury, in last August Assize Court, in the cause of Sterne v. White, be returned upon the record, in favor of the plaintiff,* as the counsel for the defendant had neglected to argue the case in the last Supreme Court. His Honor was about to reply, *when up jumped Mr. Attorney-General, and said, "why, your Honor granted a new trial for these Assizes,* and our witnesses are all now here, prepared for the issue.

THE CHIEF—*Mr. Attorney-General we did no such thing.*

Mr. ATTORNEY-GENERAL—*Indeed, Your Honor, but you did, though.*

THE CHIEF—*We did no such thing, Mr. Attorney-General, you must have mistaken the Court.*

Mr. PANTON—Your Honor certainly forgets; *you most assuredly did grant us a new trial.*

THE CHIEF—(Looking savage and black) *be seated, Mr. Panton, we did no such a thing*, you mistook the meaning of the court; for if you look at the act itself, you will find we could not.

Mr. PANTON bowed, and seated himself.

Mr. ATTORNEY-GENERAL—*Your Honor most certainly did grant us a new trial, and our client, Mr. White, went to England, with a copy of the record, to that effect, in his pocket.*

THE CHIEF—*We cannot help it, Mr. Attorney-General.* Let us know, Mr. Middleton, what your motion is.

Mr. MIDDLETON—*That the verdict, as granted by the Jury, be entered on record, in favor of the plaintiff.*

THE CHIEF—*(Addressing the clerk of the court), let that be done, setting aside the new trial.*

Mr. ATTORNEY-GENERAL—Then, your Honor, I think that very hard upon Mr. White; and had your Honor only decided so at the first, it would have been all settled before this; it would have been set aside; *for the plaintiff was going to enter up a satisfaction on the judgment, and so I told the jury a day or two after, when I acted as his counsel in another case, giving the plaintiff the full benefit of such.*

THE CHIEF—You, as the Plaintiff's counsel, addressed the Jury to that effect.

Mr. ATTORNEY-GENERAL—Certainly, your Honor, I did; *I had the Plaintiff's authority for what I said, and the Plaintiff had the full benefit of such an address.*

THE CHIEF—*Oh, then, that alters the case; a suitor is always bound by his counsel, and, as such, I shall certainly stay all the proceedings upon the judgment.*

Mr. ATTORNEY-GENERAL—Very good; that will do, your Honor.

THE CHIEF—(Calling the clerk of the court)—mark the record in that cause, *that no proceedings be allowed to issue, without the express orders of the court.*

At this most unjust and arbitrary rule, I called upon my counsel, Mr. Middleton, but he would not listen, or pay attention to me, I spoke to the Attorney-General, nor would he; I then walked up to the Chief to address him on the subject, but he ordered me down; I attempted to speak, but he ordered me off, saying, "we cannot hear you, but through your counsel," I then went to Mr. Middleton, Mr. Middleton said *I was not your counsel*; I then went to the Attorney-General, he said, *I am not*

your counsel; so neither would, through fear of the Chief, countenance me. I then told the Attorney-General, you have been asserting *falsehoods*, to injure my cause; *I insist on your retracting*, and doing me justice. Mr. Attorney-General replied, tell me that in some other place, Sir, I said I would both tell it to him there, and at any other place I met him.

I then appealed to Mr. Mowat, my solicitor, who was present and witnessed the whole, and knew, of course, a great deal more of the facts about it, than others of the lookers-on: *Mr. Mowat was so disgusted at it, that he hardly knew what to do;* he said he would take his name off the record as my solicitor, and then I could go on record, in my own proper person, and speak for myself: accordingly, he proposed a motion to that effect, which he handed to Counsellor Middleton, and Mr. Middleton moved, that Messrs. Mowat and Read be withdrawn from the record, as solicitors for the plaintiff, in Sterne, *v.* White; and that the plaintiff do go on record, in his own proper person: but the Chief would not for a moment entertain it: Mr. Mowat was at a loss what to advise me to do. He said, you see all your attempts to get justice is thrown away, *the Chief is dead against you, and you are sacrificed;* it is only throwing away your money to proceed, but, if you are determined to go on, go you to Mr. Batty, fee him, and let him advise you: accordingly, away I went to Counsellor Batty, tipped him his fee, and consulted.

Now, Mr. Batty is the only sturdy, and truly independant counsel at the Jamaica bar: he advised me at once to draw up an affidavit of facts to set aside the Attorney-General's assertions made to the court, bring it to him for form and correction, and he would move the court respecting it, in the morning.

I accordingly prepared the following affidavit, which Mr. Batty corrected and settled.

In a matter of Sterne v. White.

Jamaica Ss.
In the Surry Assizes.

HENRY STERNE, of the Parish of Saint George, in the County of Surry, and Island aforesaid, Esquire, the plaintiff in the above cause, being duly sworn, maketh oath and saith;

THAT, on the morning of the trial in the cause Sterne *v.* Swire and others, in the last August Surry assize court, before the trial had recommenced (it having been adjourned the evening

before) at 8 o'clock, *a.m.*, this deponent with counsellor Edwards, at Mr. Attorney-General's own request and appointment, waited upon Mr. Attorney-General at his lodgings to consult together, as to the nature of the evidence, to be adduced on such trial, when the following observations were made by this deponent to Mr. Attorney General.

"*Well, Mr. Attorney-General, I think you have acted very unwisely, in moving for a new trial in the cause of Sterne v. White, for, had you not done so, it is more than probable it would have been all settled ere this. For I had authorized my friend, Mr. Sollas, to wait upon Mr. Nethersole with a proposition, that, in order to show forth to the world, that I did not want to pocket a single dollar of White's money, if he, Mr. Nethersole, would procure for me the letter, which, he asserted in Court, Mr White was willing to grant me, expressive of his regret at what had passed, and paid up the costs of suit of the action. I would enter up a satisfaction on the judgment; but, of course, the Court's granting a new trial, has completely put such a negociation out of the question.*

AND THIS DEPONENT *doth most solemnly assert, that nothing further fell from him to Mr. Attorney-General, relative to the matter of Mr. White; and, moreover, that he, deponent, never gave Mr. Attorney-General any authority whatever, to make use of such observations as fell from him, much less to have authorized him, as he asserts, to have made use of them in a Court of Justice.*

AND THIS DEPONENT further most solemnly asserts, that Mr. Counsellor Edwards, was joined with Mr. Attorney-General as this deponents counsel, in the matter of Sterne, v. Swire, and others, and he, deponent, did wait upon and consult with Mr. counsellor Edwards, as to the matter of the said trial, and deponent further declares most solemnly, that to neither of his said counsel, did he express a wish, or give such authority, that such aforenamed proposition should be mentioned to either court or jury, much less that he ever intended to forego the judgment.

AND THIS DEPONENT solemnly asserts, that he was present during the whole trial of Sterne *v.* Swire and others: and that, during such trial, no such observations were made by, or fell from, Mr. Attorney-General, as were stated by Mr. Attorney-General to have beeu made, to either the Court or Jury, relative to this point, or that this deponent had spoken to him on such a subject, further than as follows:—

"Mr. Attorney-General observed—Gentlemen, I do assure you, that something has come to my knowledge since I last

addressed this Court, when I was Counsel against my present client—which, I assure you, gentlemen, causes me to form a very different opinion of him than I then entertained. I know him to possess honor, gentlemen." Further, Mr. Attorney-General never spoke relative to Mr. White or the trial.

And this deponent, further solemnly avers that the contents of this his affidavit, is just and true in every particular, to the best of his recollection and belief.

HENRY STERNE.

Sworn before me, this 13th day of January, 1836.

JOHN WEPPLER, *per Commission.*

Having engrossed it in duplicates on the proper stamps, I attended at the court in the morning; but it was not moved until the second morning, *say Thursday* 14*th*, one copy having been laid before the Chief according to the rules of court: the Chief took it up to read before either Mr. Batty or Mr. Attorney General came into court, and knowing Mr. Middleton to be my counsel, he called out to Mr. Middleton—why, Mr. Middleton, here is an affidavit laid before us in the case of Sterne *v.* White—and a very improper affidavit it is; we wonder at any counsel attempting to have allowed it to be laid before a court; it is so impertinent—so improper, *directly giving the lie to His Majesty's Attorney-General.*

Mr. MIDDLETON—Getting up, opening his copy, and reading, replied,—why, your Honor, *I see nothing objectionable in it.*

THE CHIEF—Nothing objectionable—why, it is the most improper document I ever saw; I wonder at my counsel allowing such a thing to be laid before us.

Mr. MIDDLETON—I can see nothing wrong in it, your Honor: the language is very strong—very strong, very powerful, but nothing but what is right, and ought to be allowed.

THE CHIEF—I am surprised at you, Mr. Middleton, for saying so; here, Mr. Attorney-General, (who had that moment entered the court,) here is an affidavit that has been laid before us, in the case of Sterne *v.* White, *directly impugning your veracity, but we will not receive it, looking black, black, horribly black, at Mr. Middleton.*

Mr. Middleton—Your Honor, it was not settled by me—Mr. BATTY *settled it*, shewing the settlement, with Mr. Batty's initials to same.

THE CHIEF—(With surprise) *Oh, very well—we will not receive it.*

Seeing the court was fully bent not to give me hearing by counsel, I had the following document prepared, as a motion to the court, which Mr. Middleton, as my counsel, moved, *but the Chief would not recognize it.*

STERNE *v.* WHITE.

To Move.

That Henry Sterne, the Plaintiff in the above cause, do go on record, in his own proper person, in the room of Messrs. Mowat and Read, his attorneys on record, on the usual terms.

HENRY STERNE,

In pro. per.

We consent, M. & R.

I had now to go back to Mr. Batty, who said, never mind; be you in court to-morrow morning, and I will be there. I will talk to him myself. But what is your direct wish; why, I said, to obtain justice. *The Chief has directed the verdict of the Jury to be recorded up as a judgment, with one breath—and with his next breath he has nullified and set it aside*, because he finds the Attorney-General will not allow him all his own way. What then shall I do for you, asked Mr. Batty; *I replied, for charity sake do all that you know to be right; leave nothing undone that ought to be done;* for I see he is determined not to grant me any justice, however right my cause; and I am resolved, on my part, that when I have done all that I can, out here, unless I do get justice, *I will carry the case across the water, and impeach His Honor before the Home Government.*

Very good, replied Mr. Batty, but what point are we to fix for at present. I answered, you must insist, *either, upon my having the judgment clear and unfettered, for me to act upon, at my own free will and pleasure; or, that we proceed on at once to a new trial*, for my witnesses are still in town, at a heavy expense, myself and them being at least £20 per day.

Accordingly, the next day, *Friday, the 15th January*, Mr. Batty moved in court, *that the affidavit of Henry Sterne, the Plaintiff in the cause of Sterne v. White, be read by the court, and acted upon.*

THE CHIEF—We have already attended to that affidavit, Mr. Batty, and decided it to be an unfit document for this court.

Mr. BATTY—Why, then, your Honor, I should like to know what would be considered a fit document.

THE CHIEF—Not such a one as that, Mr. Batty; *it is a direct attack upon the veracity of His Majesty's Attorney-General.*

Mr. BATTY—*That may be, your Honor,* but it could not be avoided. *If Mr. Attorney-General lays himself open for such attacks, he must expect to receive them;* my client has come forward with facts upon oath; now, let Mr. Attorney-General rebut them if he can.

Mr. ATTORNEY-GENERAL—Well, really, your Honor, *I was under a full impression that I was correct* in what I stated to the court the other morning, concerning this case, *though, I might, perhaps, have gone a little too far.*

THE CHIEF—*Why, you vehemently pledged your veracity, for the truth of it, Mr. Attorney-General,* we are not to be trifled with, by such erroneous impressions. What is the purport of your present motion, Mr. Batty?

Mr. BATTY—That your Honor will be decisive for my client, one way or the other; we do not care which way it is; *either to have the verdict already granted by the jury, or to proceed at once to the new trial,* which your Honor granted last court.

THE CHIEF—The court has already stated, that *there was no new trial granted,* and you must now make a proper motion for what you at present require.

Mr. BATTY—*Why, then, your Honor, the record is falsified, and the plaintiff has been put to an extraordinary uncalled for expense; for we have now got a dozen witnesses in court, ready to give evidence on this new trial.*

THE CHIEF—*We can't help that, Mr. Batty,* I wish you would arrange between yourselves, and then let us know what you wish the court to do.

Mr. ATTORNEY GENERAL—Let Mr. Batty reduce his motion to writing, and then we shall be prepared to answer him in the proper way.

Mr. Batty—Very good, very good; we will prepare a motion for the court; *and then turning round to me, requested me to see him at his chambers after the court.*

Early the next morning, having met Mr. Batty at his chambers, the following motion was prepared, and decided to be acted on early in the week.

In the January Surry Assizes, 1836.

STERNE, *v.* WHITE.

Judgment obtained June Grand Court, 1835.

To Move.

On referring to the affidavit of Henry Sterne, *filed the* 14*th day of January instant*, and to the notes or admission, made by this Honorable Court, *that the order of this Honorable Court, endorsed on the back of the judgment, "Granting a new trial," be rescinded*, no such order having been made; and that the said judgment be and stand confirmed; and that the plaintiff therein be at liberty to lodge his writ of execution thereon, for the next Grand Court; and to adopt all other process to compel satisfaction of said judgment, unless cause be shown to the contrary, before the last day of the sitting of the Court.

HENRY STERNE,

In pro per.

Mr. BATTY, and Mr. MIDDLETON.

Several attempts were made during the early part of the week to bring this matter to a final close; *but there was so much scheming by the Attorney-General and the Chief Justice to baffle my endeavours*, that it was not before *Thursday, the* 21*st*, when both my counsel, Messrs. Batty and Middleton, as also the defendant's two Counsel, were all present—that the question was properly mooted, by

Mr. BATTY, who moved the Court to attend to the foregoing motion.

Mr. ATTORNEY-GENERAL—I rise to oppose the motion, your Honor. I cannot tacitly submit to allow that verdict to be entered on the record, *after the defendant has already gone to England, with a copy of the record in his pocket, for a new trial granted.*

THE CHIEF—The question of a new trial, Mr. Attorney-General, has been already decided. There has been some mistake about that; *for we have already told you we did not, nor could we, grant one.*

Mr. ATTORNEY-GENERAL—*Indeed, your Honor, but you did*; and Sterne had the full benefit of my declaration in Sterne *v.* White, and, moreover, he quietly acquiesced in what I told the Jury.

Mr. BATTY—Now, Mr. Attorney-General, if Sterne was to have entered up a satisfaction on the record, *why move for a new trial?*

THE CHIEF—*Sterne had the benefit of the Attorney-General's declaration to the jury, in Sterne* v. *Swire.*

Mr. BATTY—*Most absurd, your Honor. The Attorney-General was not Sterne's counsel in this cause; but we fear not a new trial—our witnesses are all here, and ready to go to one.*

Mr. ATTORNEY-GENERAL—*I cannot consent, your Honor, to any thing else but a new trial.*

The CHIEF—But the Court has not the power to grant one.

Mr. ATTORNEY-GENERAL—Mr. Batty says the plaintiff is ready to go to trial again.

The CHIEF—If all parties consent to such, that alters the question. *Seizing his pen for the decision*—what say you to that, Mr. Batty?

Mr. BATTY—Oh, your Honor, we are ready for either; my client has told me so; (*and then, turning round to me, who stood at his back, said, "You are ready for either, are you not?" I replied, I leave it to you, entirely.*)

The CHIEF—Come, Mr. Batty, we are waiting for you to say.

Mr. BATTY—The Attorney-General will have a new trial, it seems, and we can do nothing without it; so, your honor, with all my heart, we consent to let him have his own way; but, I tell him, he will rue it. *And then, looking up at the Jury, then sitting, continued—With twelve good honest men there, we will have £300 for the next verdict, instead of £103; we will expose the gross conduct of the defendant.*

So, accordingly, a new trial was now fixed upon, which I wanted brought on at once, to save the dreadful expense of again bringing over my witnesses, but this the Court objected to.—Dated Thursday, 21st January, 1836.

The following document is a copy from the declaration of this action, taken from the record.

In SURRY.

The Jury find Defendant Guilty, upon Counts 2 & 3.

Damages, £103 6s. 8d.

Foreman—THOMAS CLINCH.

New Trial Granted.

AUGUST, SURRY ASSIZES, 1835.

In SURRY.

No Writ to issue without order of the Court.

Entered up first Monday of Court,

January 11, 1836.

The new trial being now decidedly fixed for April Assizes, my witnesses returned to their homes—*much to the annoyance and disappointment of the* Hon. JOHN BELL, *who had been heard to boast, publicly, before he left St. George's, he would again drink his* CHAMPAIGN *at Sterne's expense, for he should insist upon having his expenses paid, before giving his evidence, and, of course, his not having been called upon the boards as a witness, he could not claim it.*

The April Surry Assizes now began to draw nigh; accordingly, I went to Kingston, and got my subpœnas prepared for my different witnesses, in No. 15, as follows:—

1. William G. Nunes,
2. Charles Harvey,
3. Moses Sarfaty,
4. M. G. Silva,
5. D. M. Sollas,
6. Edward C. Burgess,
7. M. M. Sollas,
8. John E. Anderson,
9. Robert Hutton,
10. Henry Burge,
11. The Hon. J. Bell,
12. Edward E. Fishburne,
13. Roger Swire,
14. Colonel T. Moody,
15. Dr. James Maxwell,

There was a *duces tecum* served upon Mr. W. G. Nunes, Chas. Harvey, and M. M. Sollas, to produce certain needful documents; and I went to the labour of serving the whole personally, myself. Both Mr. Middleton and Mr. Mowat told me I should injure my cause by attempting to bring Mr. Nunes, the Governor's Secretary, into Court; but I nevertheless attempted it, and served him with the subpœna myself, at the King's House. The assizes arrived, and now came on.

Second Trial of

Sterne v. *White.*

SURRY ASSIZES, WEDNESDAY, APRIL 13, 1836.

THE COURT.

Sir Joshua Rowe, Knight, Presiding Judge,—Assistant Judges—The Honourable **John Mais, Hector Mitchell,** and **Anthony Davis,** Esquires.

THE JURY.

1. Richd. W. Panting,	St. Andrew,	Planter,
2. E. C. Lewis,	Kingston,	Ironmonger,
3. George Newlands,	St. Andrew,	Planter,
4. R. M'Pherson,	Kingston,	Gentleman,
5. Saul Moss,	do.	Storekeeper,
6. Simon Noyes,	St.Thos.inEast,	Carpenter,
7. B. Nochells,	do.	Planter,
8. James Wright,	St. George,	do.
9. D. Lopez,	Kingston,	Storekeeper,
10. J. W. Sanches,	do.	Cabinetmakr.
11. Dennis Tracy,	St. George,	Planter,
12. J. M. G. Wood,	Port Royal,	Carpenter,

Mr. MIDDLETON opened the pleadings, and stated the facts of the case to the Jury. *It is a very aggravated case* of trespass and assault, committed on the plaintiff under shelter of magisterial power. The defendant was a Special Justice; *and the origin of the present case was by an apprentice of the plaintiff's* (who was a sworn-in special constable, and, consequently, an officer under the Special Justice,) *lodging a complaint to the Special Justice, against another apprentice who had abused and assaulted him, whilst fulfilling the lawful commands of his mistress. And the defendant, instead of hearing his complaint and redressing his grievance, as he was in duty bound to do, thought it a fitting opportunity of revenging himself for an old grudge he held against the poor man, and, in the most cruel, illegal, and unjustifiable manner, committed him* (mind you, gentlemen, he being a complainant, and not a person complained against) *to the St. George's workhouse, where he was incarcerated in irons, and put to hard labour.* That, in consequence of such an unjustifiable committal of the plaintiff's faithful servant and apprentice, Mr. Sterne, who was at the time in the Special Justice's Court, having accompanied his wife there, who was summoned to give evidence by defendant upon this complaint, this being the morning of the *13th January.*—Mr. Sterne, gentlemen, as became a man, nay, as he was in duty bound, *to protect his faithful, innocent, and unprotected apprentice, stood up, and remonstrated with the Judge.* He respectfully entreated his Worship to hear his wife's evidence, particularly so, as he, the defendant, and then Judge, had summoned her there for the purpose. *No, cries the Judge, I will not hear her evidence, my mind is made up—and I shall commit the man to prison*

Mr. Sterne still remonstrated; but, instead of the Judge attending to the remonstrance, he got into a violent passion, *swore at and abused Mr. Sterne from the bench*, and threatened him, that, unless he shut his mouth, he would likewise commit him, and put him alongside of his apprentice. *Mr. Sterne, ne-*

vertheless, continued to intercede, when White called upon the police, who were then in attendance, with drawn swords, and made them *lay hold of Sterne, and, with violent hands, they tore him, and dragged him out of the public Court-house*, and all this done in the presence of many of Sterne's neighbours, and respectable inhabitants of the parish, who thus witnessed the degradation committed upon him.

Sterne then went home with his wife, and having noticed another Special Justice ride up to the court-house, and *feeling most acutely the wrong and injustice committed upon his innocent apprentice*, and, I must say, callous would have been his heart, if he had not. He again *returned to the court-house*, and endeavoured by respectful intreaty to induce White to alter his sentence, and liberate the man; but White was deaf to his entreaty's, *and again made the police lay violent hands upon him, and dragged and hustled him out of the court-house.*

After the court had adjourned, on the same day, Sterne went again to the court-house, to see Mr. Hossack, the collecting constable on business, while the two Justices, *White and Fishburn were walking up and down*; but gentlemen, no sooner was Mr. Sterne seen by the defendant to enter the court-house, than *White again called upon the policemen, and with oaths, made them again drag and hustle Mr. Sterne out of his court, and gave them strict orders never again to let him set his foot in his court*; and strongly advised his associate, Mr. Fishburn, to act the same way, giving him to understand, that he was a dangerous character, and would watch and report the proceedings of his court.

All this occurred, gentlemen, *on Tuesday, the 13th of January*—and now, to show you the determination on the defendant's part to oppress Sterne, and so injure him in the eyes of his parishioners, *after the lapse of a whole week—say, on Tuesday the 20th*—a public sale of some of Mr. Sterne's property was going on at the public court-house, and Mr. Sterne, amongst numerous others, again attended there, and *he was again on this day forcibly expelled by an armed body of police from the public court-house, by the defendant, who was again sitting as a Special Justice. Having been dragged out of the court-house, Mr. Sterne entered the lobby, where the sale was going on, but here again White made the police seize upon him, and force him out; and on this occasion they imprisoned him, by keeping him at bay in the street, and not suffering him to return to the sale whither, he wanted to go.*

Again, gentlemen, after further cool consideration, and the *lapse of a whole fortnight* from this period—*say, on Tuesday, the 3rd of February*—we shall prove to you, that Mr. Sterne,

having had occasion again to attend at the public court-house on business, *was again most ignominiously and degradedly expelled from the public court-house, by the constable of the parish, at the defendant's orders, and, on this occasion, publicly boasted, that he had His Excellency's the Governor's authority so to turn Sterne out of his court.*

These are the facts of my case, gentlemen, for which I appeal to you this day, on the behalf of my client; apprising you, that a public court-house is open for all, whosoever wishes, may enter, *and no Governor, no Judge no Police, have by law the power of expelling you.* On our substantiating these facts this day, I claim at your hands a handsome compensation in damages, for the injuries and indignities my client has sustained, as well as to reimburse him for the enormous expences he has been put to in bringing on this action.

Mr. ATTORNEY GENERAL *now rose, and called for the notice of action.*

The notice of action, with the affidavit of service attached thereto, (see page 160) the same as was proved and allowed by the court to be received in evidence on the first trial, (see page 170) was now handed up, and tendered in evidence on this.

Mr. PANTON *objected to the affidavit itself, saying—Your Honor, this won't do, we must have the witness himself brought upon the boards.*

THE CHIEF—*Oh, certainly, certainly, if he is alive.*

Mr. MIDDLETON *insisted that the affidavit was all that was necessary, that it was the same notice and proof which had before been established on the first trial.*

THE CHIEF—*We know that, Mr. Middleton, but the man might never have served that notice.*

Mr. MIDDLETON—*Surely your Honor, what was considered good evidence on the last trial, mus the good this;* your Honor cannot nullify such; it was the defendant, and not us, that sought this new trial.

THE CHIEF—*The affidavit would do in the grand court, Mr. Middleton, but we cannot allow it in this, before a jury.* (Pray, reader, refer back to the first trial, page 170, and see how His Honor differs in opinion.)

Mr. BATTY—Well, then we will call Mr. Nethersole, and he shall prove the admission of service by Mr. White.

Mr. JOHN NETHERSOLE was called up and sworn—He could not prove the *distinct fact*; he could only speak as to the service *of a notice*, but not of the particular notice. Mr.

Nethersole was about relating a conversation with Mr. White, who felt surprised that Mr. Sterne should have brought an action, after he had agreed to a compromise, when

Mr. BATTY *requested him not to give a long story.*

Mr. JOHN NETHERSOLE—in an indignant manner, expressed himself warmly, in reply to the observation.

THE CHIEF—We do not think Mr. Batty meant to wound your feelings, Mr. Nethersole.

Mr. BATTY—Surely there was nothing disrespectful in my asking *Mr. Nethersole, not to tell us a long story.*

Mr. M. M. SOLLAS—Sworn and deposed, that he saw Mr. White in April, 1835, who showed him a notice that had been served upon him; *(the original notice was here shown to witness)*; he could not swear positively that the copy served, was an exact one of the original, but, thinks the substance was the same.

Mr. BATTY *to witness—Were you not present when it was served?*

WITNESS—I was at Iterboreale Estate with Mr. White, on the morning, I think of the 8th April, 1835. *I cannot speak positive as to date; myself and Mr. Adam Gray, were in the house, and in conversation with Mr. White; a servant called Mr. White out, saying some one wanted to speak to him. Mr. White went out, and in a minute or two returned to us with the notice in his hand, saying, "See here—see here—what the devil do you call this?" &c., &c. and stated it was just then served upon him.*

Mr. BATTY—Did he state by whom it was served?

WITNESS—I do not think he did. I cannot charge my memory, as to whether he did or not.

Mr. BATTY—*Do you know the witness deposing to that affidavit of the service of the notice?*

WITNESS—*I do.*

Mr. BATTY—*Did you see him at Iterboreale estate that morning?*

WITNESS—I did.

Mr. BATTY—Did you see him serve the defendant with the notice?

WITNESS—*I did not see him put the paper into defendant's hands—the defendant went out of the house, and was served*

with the notice; and, on his returning to us with the notice, I got up and saw Mr. Andrew Brown, whose affidavit this is, outside the house, preparing to ride away.

Mr. BATTY—*Well, your Honor, I think this is quite sufficient proof of the service.*

The CHIEF—*Not yet, Mr. Batty. To witness—You did not see Mr. Brown serve the defendant with the notice.*

WITNESS—*I did not. your Honor. I have stated just what occurred.*

THE CHIEF—*Then, that will not do; your testimony goes for nothing.*

Mr. BATTY—I will put another witness upon the boards—*one* of the plaintiff's solicitors.

JOHN W. REID, Esq., Attorney-at-law, being called up and sworn, proved—that the notice and copy of it was issued from his office more than a month before the action itself went out, and that no other action was sent out from his office to that Court against Mr. White; "the last day of summoning *was the 12th of May.*"

A letter from Mr. John, Nethersole, addressed to the plaintiff, was now handed up, and witness proved the handwriting to be that of Mr. John Nethersole's, which was ordered to be *read to the Jury*, and ran as follows:—

Kingston, 10th April, 1835,

Dear Sir,

I beg to annex you extract of a letter I received from Mr. White, and considering it to have arisen in error (after having been given up by you; and my having written him to that effect by your authority, as also spoken to Mr. Silva to meet Mr. Sarfaty, whom you had appointed to arbitrate on the goods lost.

"Just as I had sent my servant to the post
"with a letter to you, came the enclosed notice of action from
"Mr. Sterne. I understood from you all proceedings from
"him were at an end. Will you, my dear Sir, explain this?'

Your answer will oblige, yours, truly,

JOHN NETHERSOLE.

Henry Sterne, Esquire,

Buff Bay.

Mr. BATTY *contended that he had proved enough.*

THE CHIEF *decided that sufficient evidence had not been*

adduced to prove the service of the notice, which was an essential ingredient, and in consequence, ought to be distinctly proved. No evidence had been brought forward to prove that a correct copy of the notice had been served. The court could not forbear remarking on the fact, that the person who it was alledged served the notice, was alive, and therefore might have been placed on the boards—there is not sufficient evidence of service. The plaintiff has no ground to stand upon, without showing clear proof of the service of the notice; there is not sufficient evidence of the paper produced being a fac simile copy of that served on White—there might not have been sufficient time. That notice alluded to in the letter, might have been brought to White by his servant and not regularly served. *You fail in your proof, Mr. Batty, and there must be a nonsuit.*

Mr. BATTY, *quite irritated and indignant, at the now apparent hostile and malignant feeling, evidenced by the Chief Justice, Sir Joshua Rowe* (and which was quite perceptible to all the lookers-on in the Court-house—several whispering to me, "You are done for; you are in for treble costs—you will be non-suited; look at the Chief—he is determined to cast you," &c., &c.) *exclaimed,* "*Nay, nay, not so, your Honor; we are not to be caught napping. A non-suit, indeed—nothing like that with such a case as ours.* And then whispered something to Mr. Mowat, my solicitor; after which he went on questioning and cross-questioning the witness

Mr. MOWAT, having called me out, mentioned, *that if I would send off an express messenger* on horseback to Buff Bay immediately, it being then a quarter to 12 o'clock, a.m., and so bring Mr. Brown over to Court; that my Counsel would play out the time for the remaining part of the day, in questioning and cross-questioning; and so, by that means, Mr. Brown might be ready at the opening of the court in the morning, to prove the service in person. Accordingly, I got a young gentleman, then present in Court, a cousin of my wife's, who offered his services. I mounted him on my best horse, worth £70, and gave him the needful instructions—it was 12 o'clock when he started —the distance is 40 miles to get there, over a bad, narrow, mountainous road, equal to 60 on a level road. He got to Buff Bay by 6 o'clock that evening, and hastened to Brown, who immediately prepared to depart, but, fearful to ride over the high mountains in the dark by himself, waited till 2 o'clock in the morning, for the other to accompany him. At that hour, my wife having given him another of my horses, worth £60, which I had left at Buff Bay, the two young men started off together, *and Mr. Brown was in Kingston just before the meeting of the court in the morning,* but his services were not then required, *for it*

so happened, that Mr. Batty on looking over his brief, whilst Mr. Middleton continued to question the witness, observed, that on one or two occasions, Mr. White had assaulted me whilst he was not acting as a Special Justice, and so determined, in his own mind, immediately to take the case in hand by another tact.

Mr. BATTY, to the Chief—*I find your Honor, that the defendant has not only degraded himself by assaulting the plaintiff, under cloak of his magisterial garb, but also whilst he was in the character of a private gentleman*—not a very gentlemanly act, by the bye.

THE CHIEF—What then, Mr. Batty?

Mr. BATTY—*What then!* why your Honor, we tell you this, that, as your Honor is so very nice and particular to have the strictest legal proof for the Judge Stipe, *we will not allow him to be a Judge Stipe at all; we will make him your Honor* —I was going to say a private gentleman—*but that we can't exactly do, for he does not appear to us to be a gentleman at all.* We will however, with your Honor's permission, disrobe him of his Justiceship, *and instead of entitling him, Special Justice White*, we shall call him henceforth plain Mr. White.

THE CHIEF—*But what will that benefit your case Mr. Batty?* you must still prove the legal service of the notice, before we can allow you to go on with the action.

Mr. BATTY—*Oh! but I assure you, your Honor is quite mistaken* (aside, to us standing at his back, "Old birds are not to be caught with chaff") *there is nothing in the act that compels us to serve any notice on a private*—I was going to say again—*gentleman*, but we say *individual.*

The CHIEF—*Quite astonished—changing colour—Where is the act?*

Behold, you inhabitants of England, how are your Courts of Justice desecrated, by those of your sons whom ye send forth to foreign climes, to watch over the interests of your brothers, and to dispense Justice unto thousands.

There was not an act in the Court-house *but mine*—no, not one; neither the Chief Judge had any, nor either of his three associates—the Attorney-General had none—nor any of the barristers or solicitors at law: so that the Clerk of the Court had to exclaim—"*Your honor, there is none here.*" Then I spoke to Mr. Batty, and handed him my act, *which he immediately handed up to the Chief—and so the Chief had now before him to assist him in the decision of this nice point—the very volume which I used to take with me into the Buff Bay Court,*

house, and which the Daniels of St. George's so much dreaded —which, when the Chief had looked over, he observed to Mr. Batty, " Well, Mr. Batty, what do you to propose to make of this?"

Mr. BATTY—Why, that having disrobed the defendant of his Special Justiceship, he is plain Mr. White, and so *we have no call to prove any notice at all.*

At this there was a great whispering and general tittering throughout the court-house. *A most worthy friend of mine, a clergyman, who had that very morning breakfasted by invitation, with the Chief Justice, came to me and said, " My dear friend," and shaking his head, " had I not witnessed it myself, I could not have given credence to it; why, what have you been doing to the Chief? he is determined to overthrow you; you have an excellent counsel, but you must look elsewhere for justice, you'll not get it here,* and squeezing my hand he said, *farewell.*

THE CHIEF—We cannot see how you can do that, Mr. Batty; but, of course you are at liberty to try; we shall confine you strictly to proof; the defendant must not appear in the character of a Special Justice.

Mr. BATTY—*We shall clearly shew to the jury, that the defendant; when he committed those gross outrages upon our client, was not then in the execution of the act under which he acted as a Special Justice.*

THE CHIEF—Very good Mr. Batty; confine yourself to that, and you may go on.

EDWARD C. BURGESS—*demanded his expences, and received five pistoles—Sworn—was* a constable of St. George's *but am not one now*; was present in the court-house at Buff Bay, *on the 13th January* 1835; saw Mr. Sterne come into court with Mrs. Sterne; it was about 10 or 11 o'clock; *Mrs. Sterne was summoned there by the defendant;* Mr. White would not let Mrs. Sterne give her evidence; Mrs. Sterne said, she would like her evidence to be taken; Mr. Sterne was anxious that Mrs. Sterne should be examined, *but White refused to hear her evidence, and said, his mind was made up to commit Mr. Sterne's apprentice, Clark, who had made the complaint; and he sent Clarke to the house of correction; White ordered Sterne out of court; said he was a dangerous character,* and he would not allow him to be in his court; whilst there *Mr. Sterne's conduct was very respectful.*

(Here the Court interrupted the witness, as he was connecting defendant's magisterial capacity with his private station in society.)

Mr. MIDDLETON and Mr. BATTY both replied.

The CHIEF still maintained his determination to confine them within the rule laid down, owing, as he said, to their failing to prove due notice of the action.

WITNESS resumed—I do not recollect exactly when the Court adjourned; recollects when he was not sitting as a magistrate; he got off the bench, and walked up and down; *the Court broke up* when there was no more business; cannot say whether there was any case brought on or not; it was a Tuesday. Mr. Sterne returned; White was then off the bench, walking up and down; it was about mid-day; can't say particularly who was with him; thinks Mr. Fishburne was walking up and down with him; he asked Sterne what he wanted there; said he had told him he would not have him there; White ordered him to quit; *and told the police to take him out.*

(Here the witness was again stopped by the Chief, as he was again speaking of the defendant as a magistrate.)

Mr. BATTY *contended he was not travelling out of his course.*

WITNESS continued—He (witness) was in the habit of attending the Special magitsrate's court; he *was* a constable of the parish; it is not usual to make any special adjournment of the court; no more business was done after he was thus walking about on that day; he cannot remember that any business was done: never saw White in the special magistrate's chair after on that day; *the court house was being closed up at the time;* this was the usual day for holding the court; *the police obeyed White; they took Sterne by the shoulders, and forced him out; Sterne had a great deal of patience, and was very respectful in his demeanor;* can't say what reason White had in turning Sterne out on this day; White is generally very abrupt; *Sterne had given no cause.*

The CHIEF, *to witness*—Are you sure the Court was adjourned or not?

WITNESS—*I cannot say. The police violently obeyed White's orders; they took hold of Sterne, and turned him out.*

The CHIEF—The Court are of opinion, that the special adjournment of the Court must be clearly shewn, before we can allow it to go to the Jury.

EDWARD E. FISHBURNE, Esq., *a special justice, previous to being sworn, demanded his expenses; four pistoles were awarded him by the court, which Mr. Sterne immediately paid;* does not exactly remember the date of the Tuesday in January; *sat as a magistrate on the bench with Mr. White on the day in question before the court, at Buff Bay;* does not remember

when the court adjourned ; *it was after twelve o'clock, but not later than* 3 ; there is no particular form of adjourning the court; was not much business that day; when the court adjourned I went out ; was present when White was walking about —no business was going on then ; they are bound to attend the whole day ; *myself and White were walking up and down ;* do not remember of any business having been done after; *the court is kept open all day for public accommodation.*

Mr. BATTY—*You do not stop there at night, surely ?*

WITNESS—*No ; I go to bed (laughter) ;* Mr. White was walking about, waiting if there was any more business to come forward ; can't say who was in Court when Sterne returned ; *witness was walking up and down with Mr. White ; Sterne's demeanor was perfectly respectful ; Sterne returned about two o'clock ; cannot recollect exactly the hour ; it was between* 1 *and* 3 *; the Court house was still open* ; has no knowledge when the court-house was closed ; was examined on the last trial ; I do not remember if I stated the Court was adjourned before Sterne came in ; I did not consider that adjournment ; I left the bench, for there was nothing before me ; I left the Court, and came back again ; White asked Sterne, what brought him there ; and he told Sterne not to come there again ; I do not remember any thing of the 3rd February ; I can't charge my memory freely of Mr. White ; his conduct was very violent.

The CHIEF—The Court are of opinion that, during the whole of the day, the magistrates were acting as magistrates, whether business was actually before them or not, and that you have no evidence as yet to go the jury on the first count.

Mr. BATTY *contended that his case was a very good one, and that he had full proof for all the outrages.*

D. M. SOLLAS, Esq., *called up ; claimed his expenses ; £8 was awarded him by the court, and paid by Mr. Sterne ;* he was then sworn : was not in the parish on either the 13th or 20th January ; *was present in the court-house at Buff Bay on the 3rd of February ;* it wasa Tuesday, which was the usual day for Special courts ; there was no business expected ; White was there ; and Sterne came there ; Mr. Sterne came in after I was there ; I can't say what he came there for ; *White asked him what he wanted there ; if he wanted any thing with him, White ; Sterne said, not immediately, your worship ; White said, then, sir, walk out ; Sterne said he had come there for a warrant for a petty debt under the act ; White again ordered him out ; Sterne leant on the bar rails ; White, finding he did not go out, then ordered the constable, Mr. Edward C. Burgess,*

to put him out ; Burgess seemed diffident—did not execute the order immediately, but went up to, and advised Sterne to go out. Mr. Sterne remained stationary where he was ; White then again ordered the constable, Mr.Edward C. Burgess, to put him out ; I will bear you harmless—I have the Governor's authority to keep him out ; and, if you are fond of law, I will give you law ; whereupon Burgess laid hold of him, and dragged him out ; Mr. Burgess returned ; every thing was perfectly respectful in Mr. Sterne's behaviour ; witness is quite sure White said he had the Governor's authority ; hearing of the action that Sterne was going to send him in the month of April, White told witness that he had received notice of the action from Sterne ; White then authorized me to see if I could make up the matter ; he regretted the circumstances ; I had a conversation with Mr. Sterne, and *Mr. Sterne was satisfied, upon his writing a letter of apology, to be dictated by myself, and which White agreed to.* Some few weeks elapsed, and the last day of summoning was fast approaching. *Sterne called upon me for the letter ; White refused to give the letter.* Sterne was doing nothing at all when White turned him out of his court ; White had neither cuffs nor collar on ; there was no police ; there were no complaints ; Mr. White, the witness himself, and his son, were sitting chatting together ; White did not act that day as either a special or local magistrate ; *is sure White was there as a private individual ; is sure White was not there in his magisterial capacity, when he had Sterne put out.*

MOSES MENDES SOLLAS, *recalled,—Was present at the court-house on the 3rd of February ; there was no court held that day ; Mr. White came down to see about some information from the Birnham Wood constables, relative to a memorial from the Rev. Mr. Bolton, which had been sent to the Governor, against Mr. White* ; Mr. White was shewing me this memorial, and mentioned his intention to ride up to Mr.Baugh's to get some affidavits on the subject ; *Mr. White was not acting as a magistrate that day* ; he had neither cuffs or collars on ; *Mr. Sterne came in and leant upon the bar rails* ; White then got up and walked up and down ; *he attacked Sterne to know what he wanted in his court* ; Mr.Sterne replied, you are holding no court, sir, and I have as much right to walk here as you have ; *Mr. White said, if you are fond of law, I will give you law ; constable, take him out.* The constable hesitated ; *White said; he would bear him harmless—" I have the Governor's authority to keep him out of my cour t; " Burgess then laid hold of Sterne and took him out of the court ;* White was rather warm, he spoke in a loud voice, and quite abruptly. Being on friendly terms with both Sterne and White, *I remonstrated with Mr. White as Sterne had committed no fault ; he told me he*

had the Governor's authority to keep Sterne out; I did not hear any blackguardism. White then left the court-house; no court had been held; *White came down on his private business; is sure of it; he had on a black coat, no cuffs or collars.* I was present *on the 20th*, between 10 and 11 o'clock; there was a great many persons present; Mr. Sterne's furniture was for sale on that day; it was a Tuesday; Mr. White was in his seat at this time, as a Judge: *Sterne came in; White made the police turn him out.*

THE CHIEF *objected to enter into further evidence of that day, and observed, that all the counsel could go to the jury with was simply the fact, that Mr. White turned the plaintiff out of his court on the 3rd of February, and lamented that the matter was not arranged by some mutual friend of the parties.*

THE COURT then *adjourned* for a quarter of an hour.

DURING the time the court was adjourned, an attempt was made to compromise, by some of the friends of Mr. White, which Mr. Sterne agreed to accede to, providing they would pay his costs between them. The Honorable John Bell, in this instance, shewed a better feeling than he had all along done; for he came forward and offered to subscribe £20 towards it; Dr. Maxwell, £5 6*s.* 8*d.*; one of the defendant's Counsel, Mr. Panton, £5 6*s.* 8*d.*; and some others also; *but Mr. John Nethersole*, although he wanted to make it appear that he was the friend of both, *opposed the compromise, saying, "let it go to the jury; I will not give one fraction*

THE COURT RE-OPENED—DEFENCE.

Mr. PANTON, at great length, addressed the jury: Before calling his witnesses in defence, he stated, that an attempt had been made to compromise, but he regretted that it had failed. The defendant he represented as being absent, and so, of course he could not consent to a verdict. He is an old Officer, gentlemen—has fought the battles of his country, under the British flag. Gentlemen, my learned friend has appealed to your feelings, and has represented *his conduct as outrageous, gross, and oppressive:* but, gentlemen, what has he succeeded in proving? Why, nominally nothing; *for you must look only to the 3rd of February. The court has already decided that they cannot go to you, for any act done whilst in his magisterial capacity;* and now, gentlemen, look to the honourable feelings of Mr. White. No sooner was there a quiet remonstrance made to him, than he agreed to apologise. I doubt, gentlemen, whether you can, under these circumstances, give a verdict against him at all: at all events, should you give one, let me entreat of you not to let

it exceed forty shillings; for if you do, gentlemen, you will saddle him with all the heavy costs of the plaintiff, who ought to have rested satisfied with the apology. Mr. White, gentlemen, is an unfortunate person—he has been dismissed from his special justiceship, merely because he was faithful at his post; he has left your Island, and has no one here to represent him. His circumstances are not wealthy—he is but a poor man, with a family—he has nothing to depend upon but his half-pay—and so, if you give a verdict of ten pounds, it will not be the ten pounds only, gentlemen, but it will carry costs with it, which will amount to hundreds, and so you will ruin him, and, perhaps, send him to jail for life. Forty shillings, gentlemen, is the extent of the damage sustained; for look at the provocation which Mr. White received. Sterne used to go to the Court with law books under his arm—lay them on the table—mend his pen—take notes—lean upon the bar—grasp the rails—look the judge in the face—and so regularly beard him. Gentlemen, if you give him any thing, you must give him the smallest coin in the island. Mr. White intended to act as a magistrate on the 3d February, although he might have been mistaken; *he must thank the Governor for it; it was under those orders that he acted, however wrong he might have been.* The Learned Gentleman now proceeded to call his witnesses.

EDWARD E. FISHBURNE, Esq., *recalled on the defence—Is a special justice for Saint George's; White used to go every Tuesday, except when the rivers were down; the arrangement between them was, that one or the other should attend at Buff Bay on that day; I am aware of the usual dress; White never wore the usual cuffs and collars; he had the dress of a naval officer; I never got any special instructions about dress; I witnessed Sterne's conduct on the 13th; I sat with Mr. White that day as a judge; Mr. Sterne's demeanour towards Mr. White, while sitting as a magistrate, was peaceable, quiet, and respectful. I thought that Mr. White's conduct towards Mr. Sterne was very violent; and I told Mr. White that I considered his conduct was very violent and insulting;* there's no form for adjourning special justice's courts; *heard Mr. White say to Sterne—you have been reporting me already to the Governor, and you may do so again; White spoke louder than usual; he said—"Turn him out; turn the fellow out." White made more noise than any body else; was not present on the 3rd February.*

ROBERT DUNBAR *is Clerk of the Peace for St. George's, and Coroner for that parish;* Tuesday is the Court day; after saw Sterne in the Court-house, he sometimes takes his law-books there, and paper, pen, and ink: he takes notes; *I cannot speak*

much as to his general demeanour; on one occasion he was very disrespectful; I have seen Sterne very disrespectful in his conduct towards the magistrates; *I have not had an opportunity of seeing his general demeanour*; I have never seen him frequently with White; was not present on the 3rd of February.

Mr. ATTORNEY-GENERAL *to witness*—Do you not recollect something of Sterne's threatening Mr. White?

Mr. BATTY—I object, your honor, to that question. The witness knows nothing of the case; *he was not present on the 3rd of February.*

THE CHIEF—*I can see nothing in your objection; if Mr. Sterne threatened Mr. White, it may go in mitigation of damages.*

QUESTION *again put to witness.*

WITNESS—*I heard of this, as from Sterne, as to what he would do to White; White heard the threats; the threats were calculated to awe Mr. White in the discharge of his duty—the threats were that he, Sterne, was there to watch White's conduct, and would do so narrowly; and that he was supported by a powerful party in England—more powerful than White was aware of;* Mr. White said, you have reported me already, and you may do so again; Sterne said, *I have not reported you, but I will do so now; Sterne might have alluded to the commitment of his apprentice. I once remonstrated with defendant on his conduct towards Mr. Sterne; it did not meet my approbation;* when apprentices were tried, White did nothing that he was aware of to be wrong; I heard White order Sterne to be turned out; *I saw Sterne turned out.*

JOHN NETHERSOLE, Esq.—I know something of this business, both by letters and conversation, from both parties; Mr. Sterne requested me to get reparation from Mr. White; and on the occasion of some goods which were lost, I was agent of both Sterne and White; that led to the interview that followed; I saw White regarding it; remember hearing from White, that he did not attempt to hold Sterne up to ridicule; Mr. White related all the particulars to him, witness, about it; witness assured Mr. Sterne that Mr. White had no bad intentions; Mr. Sterne said, all he desired from Mr. White was a letter from him, to be submitted to his, Mr. Sterne's friends, declaring he had no bad intention in acting as he did, or to hold him, Sterne, up to ridicule: White was ready to give it, and was about writing the letter, when Sterne said he intended to publish it, and send a copy of it to the Governor; witness refused to give it in consequence; *some time after this, Mr. Sterne sent*

out the action, and Mr. White wrote to witness, to say he intended to give the letter, but witness advised him not to do so; White was always ready to give the letter; but he did not give it; Mr. Sterne said money was not his object; he only wanted to shew his parishioners he would not be trampled upon. The following letters were put in by plaintiff, and acknowledged by the witness to have been written to the plaintiff; they were read to the Jury, and ran as follows:—

LETTER 1.—(*Extract.*)

"*Kingston, 21st February,* 1835.

"*Dear Sir,*

"*Your favour alluding to Mr. Wilson, and Mr. White's goods, I fear will be attended with unpleasant results, as regards expenses at law, unless arranged by a friend of both parties, taking the merits of the case in question, without reference to feeling*

I am, your's, &c.

JOHN NETHERSOLE.

To Mr. Henry Sterne, Buff Bay,
St. George's.

LETTER 2.—(*Extract.*)

"*Kingston, 27th February,* 1835.

"*Dear Sir,*

"*Our Mr. N. regrets your 'perfect ease,' and, without further preface, begs to state, that as J. N. and Co. were the shippers of the goods lost, they are parties to the grievance complained of, and repeat their recommendation to a reference to parties in no way connected with the affair, to arrange and decide between Mr. White and Mr. Sterne, in whose possession the wharf was at the time, and by whose order was not allowed to be stored.*

We are, dear sir, your's truly,

JOHN NETHERSOLE, & Co.

To Henry Sterne, Esquire,
Buff Bay.

LETTER 3.

Look back at page 202, already read, and now read again.

LETTER 4.

Kingston, 28th April, 1835.

Dear Sir,

I wrote you on the 10th instant, respecting the arbitrating for the goods lost to the address of Mr. White, Buff Bay, and will be obliged by your stating if you have furnished Mr. Sarfaty with written instructions to proceed, as Mr. Silva is ready to act on the part of Mr. White; and I am, yours,

JOHN NETHERSOLE.

To Henry Sterne, Esquire,
Buff Bay.

LETTER 5.

Kingston, 2nd May, 1835.

Dear Sir,

I have received your favour of the 28th April, and in noting your observations, THAT "*I decidedly declined any interference in Mr. White's affairs,*" beg to state, I DID SO ONLY in so far as *regards the actions of yours against Mr. White;* but I deny the circumstance of the loss of the goods by your means, having been alluded to at all, and my *application was confined* SOLELY *to that point,* when I addressed you last post; however, as I feel Mr. White has a claim on you for the injury he has sustained by the loss of his goods, by your having ordered them from the wharf to gratify your own private spleen, as stated in your letter to me, *dated 25th February,* I have only to regret its continuance on your part,

And am, your obedient servant,

JOHN NETHERSOLE.

To Henry Sterne, Esquire,
Buff Bay.

Witness continued—Notwithstanding these letters, he persisted in stating that he considered the matter had been arranged. He acknowledged that the conversation in which Sterne agreed to accept the letter, *was before the notice of action, or the action itself, had gone forth; and the letter never was written.*

Mr. Nethersole next stated, that he had a conversation with Sterne, in which he said to him—"Good God! as you have declared you have no wish to aggrandize yourself at the expence of Mr. White, why pursue him in this manner? he has already

lost his commission as a Special Justice, and all that is now left him is his half pay; would you deprive him of that? will you ruin him? Mr. White has a wife and family, and believes he has nothing but his half pay.

Mr. ATTORNEY-GENERAL *now very feelingly addressed the jury*, and represented it as a spirit of malignancy on the part of the plaintiff in bringing this action for the purpose of oppressing a poor man, and laid great stress on the circumstance of Mr. Nethersole, declaring, that a private apology was at first said would be an ample recompense to Sterne, for the amount of injury he sustained. He observed, that the mutual friend of the parties *hoped the jury would not assist the powerful party at home*, who, Sterne boasted, were supporting him. The Learned Gentleman passed a very high encomium to the memory of—*as he termed it*—the meritorious judicial conduct of Mr. White; and hoped the jury would give the smallest coin current in Jamaica, as a compensation for the imagined injury done to the plaintiff by defendant; *and strongly called upon the jury not to add further strength to the powerful "party at home," by their verdict this day.* What, gentlemen, do I not see—*and do I not now address—a body of planters in that box?—and will you, gentlemen, allow it to be said of you*, after you have quitted that box, *that you have strengthened the enemies of your country—that you have crushed the special magistrate*—he who has already, as Mr. Nethersole has told you, *lost his commission as a special justice*;—and for what, might it not be asked, gentlemen? *Why, for his zeal in your service—for his indefatigable assiduity in promoting your interests.* Mr. Sterne openly avowed to injure White in his Courts; he stated he went to his Courts to watch him—to spy him out, and to report him. It is *your duty—nay, it is your interest, gentlemen, to stand between the absent Mr. White and the plaintiff. Are you going to support Mr. Sterne, who is backed by a faction at home—a powerful party, who are the enemies of your country, and so crush the special magistrate, who is your most zealous friend.* If you give a verdict in favor of the plaintiff for this most frivolous affair—I call it frivolous, gentlemen, for the Court will tell you that *you are to look to nothing but the simple turning out on the 3d of February.* And, gentlemen, the plaintiff had no business to bring this action—he had sustained no injury; and, for the imaginary injury he had sustained, Mr. Nethersole tells you Mr. White was ready to make every reparation. Gentlemen, I *say again, if you give a verdict in favour of the plaintiff, you will saddle the already ruined Mr. White with many hundreds of pounds for costs—you will take from him his half-pay*, for which he has fought for his King and for his country—nay, for you, gentlemen, under

the valiant British flag ; *and he must finally go to jail*, instead of still being at large to serve his country. But, on the other hand, if you merely give a nominal verdict, *the plaintiff, though you may consider him injured—will not be the loser—no, not of a single dollar. Gentlemen, believe me it will not come from his pockets—but it will all be repaid him by this powerful party, your enemies at home.* I pray you, therefore, to consider—to weigh the matter well, before you decide your verdict, and do not deliberately injure your own cause. The address of the Attorney-General occupied the court upwards of an hour and a half.

Mr. BATTY replied, complimenting the Attorney General on the length and eloquence of his address, but he declared it left him in a complete *chaos*, as he did not understand one third the Attorney General had said in the course of his speech. Mr. Batty, in alluding to Mr. White, stated, that he had received his education on a man of war's deck, where he could order a man off his deck, or put him in irons for disobedience of orders, but unfortunately for him, the sailor was out of his element, and he hoped the jury would, by their verdict, convince him *that the liberty of his Majesty's subjects was sacred.*

Mr. Batty recited the particulars of the evidence adduced during the trial, *declaring, that this was a complaint of a serious and aggravated nature*, committed against the plaintiff *and entitled him to heavy compensation in damages. He alluded to the circumstance of the defendant as an officer, as a gentleman, and as a judge ; most falsely and barefacedly asserting, that he had the authority of the Governor for acting as he had done, and afterwards acknowledging, that he had no such power delegated to him.*

Gentlemen, let me impress well upon your minds, the important fact of either your own, or the plaintiff's right, of freely entering a court of justice ; *it is a right handed to you from your fathers, and should be as dear to every Briton as his birthright.* And let me tell you ; that no court or judge whatever has the authority and power to admit or exclude whom it pleases.

Gentlemen, it is not necessary to shew any specific damage arising from the trespasses to the person, *although in this case we could shew you a multiplicity of evils—did not one of the witnesses tell you, that Sterne had become a marked man in the parish, in consequence of the indignity with which he was treated, by this favorite and powerful magistrate ; who backed his insults, by falsely declaring he had the authority of the executive, to drive Sterne as a spy from his courts. Gentlemen, I ask you, what greater injury could possibly be done a man,*

and he a man of family too, than to represent him amongst his neighbours and parishioners as a spy, as an enemy to his country, and we all know in what light a spy is looked upon, every where; in some places, gentlemen, it would be thought too good to hang, draw, and quarter him—and yet, gentlemen, this is what my learned friend tells you is a frivolous action. Was not Mr. Sterne perfectly right in holding out for his letter of apology—and would he not have been perfectly justified in making such public? Was not Mr. White's indignant treatment done to him in the most public manner? and, I say, gentlemen, that it was liberal, that it was manly, that it mas independent and noble in Mr. Sterne, in agreeing to be content with a simple letter of apology, after all such ill-treatment.

It is all a farce, it is all a bugbear, gentlemen, for yon to listen to the very feeling display of my learned friend, Mr. Attorney-General, and the witness Mr. John Nethersole—*they had it in their power, time after time, to put a stop to this extraordinary expensive suit, simply by giving the letter required, and which the witness declares, Mr. White was all along willing and ready to give, but for his pretended friendly interference;* I say pretended, gentlemen, because, even this very day might have put an end to all, and might have prevented further exposure—*you have yourselves witnessed from that box*, an attempt made on the part of some of Mr. White's friends to pay up the costs, and be done with it—*but this particularly feeling friend of Mr. White's*, whom you heard telling you with seeming abhorence, what ruin the plaintiff was about to inflict upon the unfortunate Mr. White and his family; he, gentlemen, *has been the preventative*, and while others were ready to cast in their pounds, he would not cast in his mite

Gentlemen, *both* of the learned *counsel* have told you, or in effect *have admitted, that a verdict must go against the defendant;* notwithstanding the courts having decided that for the want of notice, *we could not go into the facts, done by White as a magistrate, when sitting in that capacity.*

Gentlemen, in consequence of this very harsh decision of the court, we have been unable to do our client justice in this cause, and *I most warmly deprecate this decision of the court, because this is merely a new trial* of the case granted by the court, and *the same evidence they allowed on the last trial, they were bound to have allowed in this;* but, gentlemen, you have yourselves witnessed the very arduous fight we have had of it, notwithstanding we had brought up, gentlemen, 15 witnesses, to have opened their thunders here to-day, but by this determined stand of His Honor we have not been able to bring forward but 4.

The court has ruled, that the plaintiff should confine his arguments to what took place on the 3rd of February, whereas it has allowed Mr. Attorney-General to place before you, evidence from witnesses, who were neither pre sent, or knew ought about that day—Look to Mr. Dunbar's evidence, he declared he was not present, yet the court allowed him to answer Mr. Attorney-General's questions, in opposition to our objections—and there, gentlemen, if you will believe what he has said, and what my learned friend has represented his evidence to be, you will, indeed, be doing great injustice to my client, and a positive injury to yourselves—*Mr. Sterne, gentlemen, is your friend; in defending his own rights, he is defending yours;* he is no enemy of yours, he has no powerful party to back him—he is an injured, honest man, he is only standing for his rights, *he has come forward single-handed in this cause, and in your protecting him, you only protect yourselves.*

Gentlemen, the court has ruled that on the 13th of January Mr. White was acting as a magistrate after the adjournment of the court.

The court has decided that there was no adjournment.

The court refuses to allow the plaintiff to go to the jury, either as to whether a trespass had been committed on the 13th January, *after the business of the court had terminated, or not.*

Gentlemen, *I do say, that there was sufficient evidence to show that a trespass was committed on the plaintiff, after the cessation of business on the 13th.*

Gentlemen, continued the learned counsel, *impressing upon the jury, the importance of this cause,* I claim at your hands a handsome remuneration, in damages, for my client.

The CHIEF JUSTICE, Sir JOSHUA ROWE, now summoned up, making comments as he proceeded. *He directed the jury to let their attention rest solely on the trespass said to have been committed on the 3rd of February*—We have no evidence on the point, for either the *13th or 20th January—On these two first days* of alledged trespass, *the court are of opinion, that the defendant was in the execution of his duty as a special Justice,* and as there was *no sufficient evidence* of the notice of action having been duly served, *the plaintiff was stopped by the court from giving evidence of any trespasses on these days.*

I must also observe to you, gentlemen, with regard to *Mr. Nethersole's evidence about the accommodation, &c., if it had been at the first put upon the record, it would have been at*

once an answer to the action. My observations will be very few—a special justice's court is an open, and a public court; and they have no right to turn out whomsoever they please, and yet I must inform you that *a special Justice has full power to turn out unruly persons.* Gentlemen, I fancy I need not tell you, that Mr. White had a very arduous duty to perform as a special Justice, in Saint George's. *Special Magistrates must be supported, gentlemen*; but, if you consider the special Magistrate has done that which is not right in this instance, you must find a verdict for the plaintiff; in point of fact, it is a simple question of A and B, between Mr. Sterne and Mr. White. I am bound to tell you, that Mr. White had no authority to turn Mr. Sterne out of his court, yet *Mr. Nethersole shows you, that Mr. Sterne was perfectly satisfied with the letter*—I must however remark upon the defendant's conduct, that when a person remonstrated to him, he told him he should have law for it, and that he had the Governor's authority so to act—Gentlemen, I must say, that any one who knows the Governor, will not suppose for one moment, that he could have given Mr. White such authority.

Mr, Dunbar tells you, gentlemen, that there were threats used to Mr. White upon the bench, by the plaintiff; that the plaintiff openly avowed himself to be the agent of a very powerful party in England, and that he attended at his courts, purposely to watch and report of him—who that powerful party is, that is so alluded to, it is impossible for us to determine, but the evidence is here for your consideration.

Mr. BATTY, *really, your Honor, I cannot quietly allow such to go to the jury—we shall be bound, in justice to our client, to tender a bill of exceptions—we contended, and do contend.*

1*st* THAT *we have given sufficient proof of the notice.*

2*nd* THAT *no notice was necessary, as these acts, perpetrated by the defendant, were not perpetrated by him whilst he was under the protection of the act.*

But these facts your Honor has overruled, and thus shut us out from giving any evidence of the acts done by White, while he was sitting as a magistrate.

And yet your Honor is now sending to the jury, the evidence of Mr. Dunbar, of the threats of Sterne to White on the bench—at once admitting the effect of evidence, on the part of the defendant, of facts before the 3rd of February, from which the court has excluded us.

The CHIEF—*There is evidence of these facts before us, Mr, Batty, and we have right to comment generally on the*

conduct of Mr. Sterne towards Mr. White—and these threats to awe the magistrate in his duty, being such an important fact, we think proper not to keep from the jury, as it may serve to mitigate the amount of damages.

And now, gentlemen, continued His Honor, *addressing the jury*, to be very brief, *We believe there was bad feeling on both sides, and mutual acts of aggression*, (still alluding to the threats and evidence from which the court had excluded Sterne) *I am bound to tell you that it will be your duty to find for the plaintiff, but the amount of damages is left entirely for your consideration.*

The jury retired at half-past six o'clock, when the court immediately adjourned.

Surry Assizes.

THURSDAY, 14th APRIL, 1836.

THE COURT.

His Honor, **Sir Joshua Rowe**, Knight, Chief Justice, &c. with his associates **Anthony Davis**, and **W. B. King**, Esquires, having taken their seats on the bench

The JURY, who were locked up the preceding night, in the action of STERNE *v.* WHITE, came into court and answered to their respective names, delivered their sealed verdict for PLAINTIFF—*Damages 20s. without costs.*

THE COURT *informed the jury, that they had nothing whatever to do with costs, as that remained alone in the province of the court.*

Mr. PANTON, for the defendent, tendered the 20s. in payment of the verdict, to the court.

The COURT remarked that it must go through the proper officer.

Thus ended this most ruinous, and expensive lawsuit in Jamaica, and finding it useless to attempt any thing further, there, I forbid my counsel from entering up a bill of exceptions, telling them I was determined to proceed to England, and lay the matter before the government at home.

"I will a plain unvarnished tale deliver."

In consequence of the foregoing trial, the following were the Editorial Remarks of the Jamaica Dispatch and New Courant Newspaper, *in anticipation of the Jury's verdict*, for as yet it was not known, they being locked up.

KINGSTON—THURSDAY, 14th APRIL, 1836.

Editor's Remarks.	My Answers.
The case of Sterne *v.* White late Special Magistrate, occupied the Court during the whole of yesterday. *A warmer day we have seldom encountered*, and we witnessed, with astonishment, the patience with which the Bench listened to the thrice-told tale of *a tri-fold attempt to destroy every prospect the late Stipendiary has of providing for his family.*	The Editor's remark of the warmness of the debate in court, was perfectly just. *It was one scene of a most unjust attempt on the part of the Chief Justice to overthrow, by arbitrary authority, my right of appeal for justice, and but for the independent and determined stand of Mr. Batty, he would have accomplished it.* But if the valiant Editor had studied the real interest of his friend Mr. White, for whom he laboured through thick and thin at all times, he would not now have so unhesitatingly come forward at my expense to do so; *for he cannot plead ignorance of the fact, that every thing had been done on my part, consistent with honor, to put a stop to expense or exposure.* (see page 194,)
Mr. White belongs to a *noble and generous profession*, and his conduct *was manly*, straightforward, *and humane*, whatever his enemies may say to the contrary.	That Mr. White *being an officer in the Royal Navy*, and thereby *belonged to both a noble and a generous profession, no one will attempt to deny.* But if his conduct is to be considered *either manly or humaue in consequence* of his being so connected, after having acted the various parts charged against him in this volume. See pages 32, 77, 78, 85. *Then good bye* to either title of *nobleness or generosity, in that profession.*

When he assumed the duties of Special Magistrate in Saint George's, he found the negroes of his parish in a very unsettled state, and his energies and personal activity were kept in operation for a short period. *He listened with the utmost patience to the complaints of the blacks, redressed their wrongs*, and he punished the refractory; but no one ever dared to say that, in *any one instance he exceeded the law*, or carried his duty on in secret.

That he listened with the utmost patience to the complaints of the blacks, &c., I will not say is a deliberate falsity, because, in some few instances, he may have done so; *but that he made a practice of so doing, I positively declare to be foreign from fact, as I have myself been present when he acted the very reverse; the poor unfortunates not daring to open their mouths in their defence, but were at once hurried off for punishment, without any investigation as to whether they were really right or wrong.* And as to his having in *no one instance exceeded the law, I refer my reader to page* 32, to read my memorial, addressed to his Excellency the Governor.

No, he did his duty so fairly and fearlessly, that the apprentices knew so well he would afford them justice, that his award with them was final: and his absence from the parish, and dismissal from the magistracy, *was to them a source of sincere regret.*

If this were the fact, why then did he, with such venom and caution, so constantly expel me from his courts; I give his own words by way of answer, which he used to his associate, Mr. Fishburne. See page 82. "*The fellow will watch and report all your proceedings*," or the remarks of the *Watchman* Editor on the subject. See page 91. And why, also, the rejoicings, and united thanksgivings of the poor blacks, referred to in page 81.

The cause of his dismissal we shall not now advert to, as it has been so frequently before the public; but we shall not omit the opportunity of stating, that it was entirely owing to the representations made against him for the private information of his Excellency the Governor.

I also need not advert to it, for it must now be obvious to the reader, that the causes were indeed great, when the whole of my very strong representations were passed by, and unheeded by his Excellency.

On the discovery of this system of espionage, is it surprising that when Mr. White found Mr. Sterne again in his Court, he should demand his business.

If Mr. White was in the habit of doing his duty so fairly and fearlessly, as Mr. Editor would wish the public to believe. What need he fear of espionage —he would rather have courted it, as the *Watchman* Editor observes, at page 91. Saying nothing about my public declaration, as all the witnesses on the trial allowed that I made, "*That I had never so reported of him,*"

The special magistrate's court, like all others, we know to be an open one *for the reporters of the press*, as the public have a guarantee that the proceedings will not be misstated. for obvious reasons; but we do not think any magistrate can be censured for preventing the hired spy of any society from reporting proceedings only intended for a party, whose object is not the truth, but misrepresentation in any shape; and Mr. Sterne, as will be seen by the evidence, has avowed himself "*the agent of a more powerful party in England than we are aware of.*"

If the reader will only turn to the evidence of Mr. Dunbar (p. 211), he will see the language made use of by him to be quite different to what either Mr. Attorney-General, the Chief Justice, or the Editor of the Dispatch has thought proper to represent it to be. The witness does not give it as a direct fact, but these are his direct words, as taken down by Mr. BATTY, on my brief. "*I heard of this as from Sterne, as to what he would do to White.* But both *Mr. Attorney-General, as well as the Chief Justice, have disgraced themselves in wilfully misrepresenting the evidence to the jury,* or, in permitting that witness's evidence to have gone to the jury at all, as he knew nothing whatever of the 3rd of February.

The knowledge of this important fact came in time, it is to be hoped, to induce the Jury to give a verdict for the defendant.

Reader, whomsoever you may be, what will you—nay, what can you say—in answer to this public declaration of the leading journal of Jamaica? Did ever party feeling shew itself in stronger colors; *it is a direct stab to the integrity of the Jamaica jury's,* however sincerely meant, but unintentionally put

	forth; because it was manifest to all who were spectators at this trial, *that nothing but party spirit actuated both the Chief Judge and the Attorney-General*, and they were both sorely bent *to destroy my cause*, yet the facts were too stubborn to be entirely overcome; *and both had openly allowed that the jury were bound on their oaths, according to the evidence adduced before them, to return a verdict for the plaintiff.*
As it is well known that a prosecution instituted against a popular magistrate like Mr. White, by a member of the Aldermanbury society, would be carried on with all the malignity which belongs to that institution, and the agent would no doubt be held harmless, while the defendant, an honest man and a gentleman by birth and profession, would have no refuge for himself and family, but a jail or a poor house.	*In answer to this piece of dastardly party feeling, read my solemn affidavit at the close of this work.*
The evidence of Mr. Nethersole, and his conduct throughout the whole proceedings exhibited his character in a manly and very proper light.	Let the reader again peruse pages 59, 148, 171, 176, 186, and then judge for himself.
He was the agent of both parties, who allowed him to be sole judge of all the difference between them; *he did settle them*, but no sooner was this done, than Mr. Sterne, like a saintly Aldermanbury eel, turns round and demands fresh concessions: and White, "the bravest of the brave," in order to put an end to every difficulty, felt disposed to meet the views	He (Nethersole) did settle all differences—this done, Sterne demands fresh concessions. A more barefaced, false assertion could not be made, the very reverse being the fact; look at page 19, 165, and more particularly to his own letter. page 213, wherein he positively declined any interference, but in giving his evidence in court, on

of his persecutor; but Mr. Nethersole, the umpire, said no—*We yielded to Sterne all he required.*" I have closed the affair as I was entrusted with it, and shall not re-open it." We could say much more on this subject, but really the public are as heartily sick and tired of it, as the bench and jurors must have been.

the last trial, in order to come off with something like clean hands, he says, " the conversation, &c. see page 213,] was before the notice, or the action had been served." Then again he contradicts himself, for after having, as he said, settled all differences, (what did he settle? *nothing*) White, feeling really disposed to do so, Nethersole cried no, " we yielded to Sterne all he required" (what did he yield? *nothing*); and shall not re-open.

Now, the real fact is, the whole blame is Nethersole's; White was wishful to close, by giving the letter required, but Nethersole would not allow him. *Nethersole admits a letter was to have been written from the first, but when he is asked, was such letter written and delivered, or even tendered; he is compelled to say no.* Thus, of course his yielding all that was required, or settling all differences, *is point blank contrary to truth.*

The defence of the *Attorney-general* for Mr. White, was very manly and dignified, and he did not hesitate to describe Mr. Sterne, as " a busy meddling man" *and his honor took care to renew the knowledge of the fact* which had been extracted in evidence, *that he was the agent of* a very powerful party in England, *meaning of course the party avowedly opposed to the colonies.* We shall continue our observations on this trial to-morrow.

This real sample of the Chief Justice, and Mr. Attorney-General, shews how unworthy they both are of the high and important offices of trust committed to their charge by his Majesty's Government.

The following were the Editorial remarks of the same paper, on the day that the verdict was made public:—

KINGSTON, FRIDAY, 15th APRIL, 1836.

Editor's Remarks.

In the case of Sterne *v.* Lieutenant White, late Special Magistrate for Saint George, it will be observed that the jury, after a short absence from court, *returned a verdict of* 20*s. in favour of the plaintiff*, thus leaving each party to pay their own costs.

My Answers.

A writer in the Kingston Chronicle and City Advertiser of Wednesday, 7th September, 1836, signing himself Henry Jenkins, aged 169, says on the famous *trial of M'Lean, versus Bourne.*

Neither the partiality of a judge, Court favour, or the sophistry of Counsel, can ever sway a JAMAICA JURY, *M'Lean has got equal damages, although Sir Joshua granted a new trial.*

In the above trial, Mr. M'Lean, the plaintiff, received a verdict at the hands of the Jury, of £200 *on each trial, with full costs* out of purse, against Mr. Bourne, a special justice. Of the equity of such verdict, I am not about to question; *but to shew the feeling of party*, I bring it forward. *Mr. M'Lean's cause of complaint, in comparison to the atrocious one of mine, was insignificant in the extreme.* But Mr. Bourne, because he was friendly and kind to the blacks, was a marked man by the planters and the press.

But, on the other hand, because Mr. White was absolutely a devil so termed unto the unfortunate blacks, and regularly coersced them continually. He was idolized amongst the planters, and held up by the press almost as a superior being; and altho' I succeeded on the first trial in obtaining, at the hands of a jury, against this popular Magistrate,

£103 6s. 8d; *yet on the new trial, by the sophistry of counsel, and the partiality of the judge,* (see the writer's words above) who represented me to the jury *as the agent of the avowed enemies of the country.* This JAMAICA JURY so lost sight of my rights, nay of their own dear rights, for which I had stood and contested, that instead of giving me any thing like what the former Jury did, they now only granted me *Twenty Shillings*, which was less than the defendant's own counsel expected, besides leaving me to pay my own costs, of some hundreds.

Of the *equity* of the verdict, no one who heard the evidence, can entertain a doubt. *That Mr. White was betrayed into an act of unjustifiable violence, no one will deny.*

Here the Editor contradicts himself. He first speaks of the *equity*, and then declares it to have been an act of *unjustifiable violence*, which, but for the Chief Justice's so unjustifiably allowing of improper evidence, I might have had ample damages; *but because I was so marked out, the unjustifiable violence was lost sight of, to my cost.*

But he was hurried away by his feelings. in consequence of some previous *intermeddling on the part of Sterne.*

This shows a pretty sample of Jamaica justice, when an unfortunate apprentice can be incarcerated in irons, &c. at the mere whim and caprice of a Special Justice, and because the owner comes forward, as he is in duty bound, to seek his release, it is termed intermeddling on his part.

But, when appealed to, he afterwards agreed to atone for his conduct by a written apology. which was acceded to on the part of Sterne.

Here is a direct acknowledgment that a written apology was to have been given, *which, if given*, there would have been no law-suit.

And the terms of it were to be dictated by Mr. Nethersole, as the friend of both parties.	Mr. Nethersole states, in his evidence, that the letter was never written, consequently I was perfectly justified to enforce satisfaction, *had Mr. Nethersole* dictated and *written such letter of apology*, and I had then refused to accept it, *there would then have been cause to complain of* of my inconsistency.
Mr. White was satisfied, but not so with Mr. Sterne.	Mr. Sterne *would* have been satisfied, if he *had the letter.*
Instead of a private apology, which was all he at first required to satisfy his fellow-parishioners, he turned round and demanded a public one, which was denied.	This is so complete a contradiction, that it condemns itself, call it as you like, private or public ; *the letter was never given*, although the terms were expressly agreed upon, by both plaintiff and defendant. (See page 171.)
Now, we ask, *if such conduct was consistent with the usual mode adopted among gentlemen?* Most certainly, not ; and the man who would thus violate these rules, ought not to be treated with much consideration.	*This is strictly applicable to Mr. White, although intended by the Editor as against Mr. Sterne.*
Besides, the hostile and vindictive feeling which Mr. Sterne evinced towards Mr. White from the commencement, is not creditable to him as a man who professes to be more religious than his neighbours.	*There was neither vindictiveness of feeling displayed, or a want of Christian charity shown*, when I so readily agreed to waive all the injuries I had received, and the indignities I had suffered, merely for a simple letter of apology.
We, however, wish him joy of his verdict, which, no doubt, will be hailed with satisfaction by every member of the powerful party with which he is acting at home; as well as in this country.	To contradict this assertion, read my affidavit at the end of this volume. *White's pretended friends have proved to be his greatest enemies.*

Poor White had been sufficiently victimised previously, but we congratulate him, that on this occasion the efforts of his enemies (and it is stated that Mr. Sterne was acting in concert with others) to ruin him have failed, and that the ordeal to which his conduct was subjected, confirmed the good opinion universally entertained of his character.

Sterne's Expences,

Or a sketch of the actual cash expended by him in prosecuting these actions, and the real loss sustained by him in consequence :—

	£		
To amount of Mr. Harvey's, my first Solicitor's bill.....	80	10	0
To do. Messrs. Mowat and Read, my second ditto	357	8	5¼
To cash fees, paid to the following Barristers, which are not included in the foregoing accounts :—Mr. Watkis, £5 6s. 8d, Mr. Middleton, £21 6s. 8d, Mr. Attorney General, £5 6s. 8d, Mr. Edwards, £5 6s. 8d. and Mr. Batty, £32.....	69	6	8
To cash paid the various witnesses, for mile money, service money, and lodging expenses, allowed by the Court, at the four different trials, and the January Assizes 1836, when 12 witnesses were in attendance, in consequence of the new trial granted, but not allowed to be brought on by the Chief Justice, Sir Joshua Rowe	455	0	0
To cash paid for my own lodging, bills, and travelling expenses, to and fro, from St. George's to Kingston and Spanish Town during the contest.....	200	0	0
To cash paid Dunbar, the Clerk of the Peace, for a copy of the proceedings in Lemasney. *v.* Sterne.....	2	10	0

To amount of furniture, distrained on, and sold	68	0	0
To cash repairs, put by H. Sterne, on the wharf, which was lost in consequence of his being compelled to give it up	32	0	0
To cash paid Brown for serving the notice of action on White	1	6	8
To actual loss sustained at wharf, which was lost in consequence of being compelled to give it up, (see page 95.)	600	0	0
To cash, paid the Deputy-Marshal, for the infamous bill of costs, allowed by Sir Joshua Rowe to be saddled upon me in the last trial of Sterne *v.* Swire and others, (see page 149)	101	13	4
To cash paid, passage money, of myself and family, to England, with expenses	200	0	0
To this amount, dedicated to the publication of this work, and its distribution	500	0	0
To a complete overthrow of my business for two years, say the whole of 1835 and 1836, with expenses in England, chances and expenses in case of a return, and the prosecuting of this cause at least.....	2,332	4	10¼
TOTAL, *Five Thousand Pounds*	£5,000	0	0

Having been asked by many of my acquaintances if it was my representations to the Governor, which caused Mr, White's dismissal from the magistracy or not, I can only say, that, in consequence of the negroes exulting so much as they did throughout the parish (see page 81) at his dismissal, Special Justice Fishburne, at the suggestion, I understood, of the parishioners, addressed his Excellency the Governor on the subject, requesting to know if it was in consequence of his (White's) severity in punishing the negroes; when he received for answer from his Excellency the Governor, *that it was not for his ill treatment of the negroes, but for his very improper conduct towards, and interference with, the duties of the Rector, the Rev. Miles Cooper Bolton, a most worthy and zealous Son of the Church, indefatigable in his duties for the spiritual welfare of the thousands of poor souls committed to his charge.*

The following publication, as taken from the Jamaica Dispatch of the 8th April, 1835, will speak best as to fact.

New Court House, Buff Bay, Saint George,
3rd April, 1835.

AT A MEETING numerously and respectably attended this day, agreeably to the requisition, for the purpose of repelling the calumnious expressions used in the following paragraph from the Rev. Miles Cooper Bolton's memorial to the Governor, *which caused the dismissal of Mr. White,* our late Special Magistrate, viz.

"*That seeing the influence Special Justice White has, ex-officio, with the Overseers, and dreading the effect of his abuse, your memorialist* (with the exception of one estate, where he has little or no influence) *has not since ventured to visit any properties in his parish, for the purpose of catechising and instructing the apprentices, lest he should meet with open insults or obstructions, designedly thrown in the way, indirectly, to prevent his labours and attendance.*"

The Reverend Miles Cooper Bolton having attended the meeting, and having publicly declared in the most solemn and direct manner "*that he never intended by the above paragraph to give the least offence, or cast any aspersions on the parishioners, collectively or individually, and that an insult which was never intended, should not be taken as such.*"

RESOLVED—That this meeting deem the above explanation sufficiently satisfactory, and recommend that the subject matter for the future be buried in oblivion.

RESOLVED—That the above resolutions be published once in each of the Kingston daily papers.

JOHN BELL, *Chairman.*

It must be remarked that it was not any individual singled out case, which caused his Excellency the Governor to dismiss this highly beloved *(by a party only)* popular magistrate, from the magistracy; for numerous were the cases of representations made against his atrocious arbitrary proceedings.

And I do most solemnly assert, that it is a **Direct Libel** on the greater part of the **Jamaica Folks,** the countenance given by a portion of the press in his favour, for I could easily publish a long list of kind-hearted and zea-

lous friends of the negroes from amongst their body; individuals who have stood forward, and are ever ready, both with purse, and in person, liberally to aid in ameliorating their condition in society.

Yet so strong does party feeling, to a certain extent, still exist, in favour of all the horrors of the old system **Slavery**, for the change to **Apprenticeship** is but in name only, as this volume will pretty well testify; that few, if any, have dared openly to avow their good opinions, as it would at once mark them out for **Ruin** and **Destruction**, *as I have been.*

The following letter, which was published in the Commercial Advertiser, (a liberal paper, by the bye) of Tuesday, 16th June, 1835, having caught my eye, I herein lay it before my readers. Who the author is, I know not.

To the Editor of the Commercial Advertiser.

Sir,

I was not a little disgusted by the remarks made in the Dispatch (a paper, by the bye, which I seldom see,) relative to Lieutenant White. Whatever Mr. White's case may be, I am inclined to believe the "*gentleman* of the Dispatch" has made the worthy Stipe speak a language little known to the present officers of his Majesty's service. I admit, however, that ex-paymasters,* and such persons whom the service has *honoured*, rather than been honoured by, do interlard their conversation with the bluster and bully of low epithets, and coarse swearing. *I should like to be informed, whether remonstrances were not made against Mr. White's very prompt decisions prior to the Governor's interference in Mr. Bolton's case.*

I shall be glad to know *if Mr. White never had culprits arraigned after dinner at his landlord's, fearful that time might jilt him.* I should also wish to be informed, *whether Mr. White ever appeared in the Court-house with a supple-jack,* (i. e, a substitute for a horse-whip) *for the Rector?* And, worst of all, *whether Mr. White has not sought the approbation of* "the *gentleman* of the Dispatch," *whose praises an honest man would prosecute in a Court of law.*

I am, your's,

A CONSTANT READER.

June 11th, 1836.

* The Editor of the Dispatch is a discharged Paymaster from a regiment of the line.

In order to shew the unfitness of Sir Joshua Rowe for the high office of the Chief Justice of Jamaica, I not only refer my readers to this volume concerning my own case, but to a portion of the Jamaica press, who may be depended upon as LIBERALS, in every sense of the word.

THE JAMAICA ROYAL GAZETTE,

date of Saturday, the 10th of September, 1836, will be found a very lengthy letter, signed " A CITIZEN," publicly and directly headed,

TO HIS HONOR SIR JOSHUA ROWE, CHIEF JUSTICE,

&c. &c.

Of which the following are extracts :—

Start not, your Honor, nor cast your eye askance when it glances on this letter, for I am no slanderer, and equally averse to offer deliberate insult to my fellow-men, whether high or low in the scale of society. If your Honor is at all sensitive, (as men of high and keen faculties generally are,) and if Tuesday's *Kingston Chronicle* has come under your eye, it is impossible for any feeling and well regulated mind, not heartily to sympathise with your Honor, for that the warning to Sir Lionel, against *the pernicious councils of a certain judicial functionary*, is pointed at your Honor, I conceive there can be no doubt.

The estimation in which my Lord Sligo's government has been held in this Island, your Honor can be no stranger to; and to charge his "*adviser*" (meaning, evidently, our Chief Justice,) with all its embarrassments—with "*polluting* the ear of the Viceroy with evil *admonition*," and with "*deserting* and *betraying* him as soon as you discovered the evil consequences of your *crude* and *ill-digested* opinions," is, certainly, an accusation not tamely to be borne by any man of a clear and honorable bosom, but, of all, by one of the Judges of the land, and be too, the Chief Justice. What, Sir; you of all others—whose purity of mind—whose rectitude of principle we are bound to presume is, at least, commensurate with your legal attainments, and your high office, to be supposed capable of instilling pernicious councils into the, we trust, yet unprejudiced mind of our respected Governor—you, who have been so long seated in the highest law chair, to be yet " a stranger to us and our institutions "—and, although thus so *ignorant*, yet "presume to give advice,"—and such advice of " *the most pernicious tendency*," and such mal-advice given too, not one indifferent to the community, but to " *the wretched representative of loyalty*"— not merely supposed capable, or barely insinuated, but expressly

charged in the most explicit manner, with all this, imputing to you, in addition, two points of character, certainly, in a Judge, the most odious and contemptible, "*arrogance* and *presumption*."

Your presence, instead of gracing the sacred hall of justice, its principal and revered chair would, unquestionably, pollute it No honest and independent Jury could regard you in that chair with satisfaction—no manly and intelligent bar could address you with confidence;—you, who, if the Kingston Chronicle is worthy of belief, are not only "a stranger to us, and ignorant of our institutions," but capable of "*giving advice of the most pernicious tendency*" to our ruler;—he, to whose hands, chiefly, our future destinies are committed; and a motive the most *unmanly and disingenuous*, for acting as you are charged with having done, that of causing a breach between the council and assembly, and to put an affront upon the latter: to lower them in the estimation of our new Governor, and, by thus sowing the seeds of future dissention between them, *affording some reasonable colour for the previous bickering with the Marquis*, and thus persuade the mother country that we colonists are so unreasonable—so restive a sort of people, that no Governor can long satisfy us, unless he is of the negative character, it will be impossible for us, in future, to look up to our Chief with that respect which is, or at least ought to be, his due.

N.B.—Since writing the foregoing, I observe, in this morning's (Friday) Chronicle, *some severe strictures—most biting animadversions on your Honor*, which I the more regret, as issuing from a press, whose Editor, *judging from his general writings, appears to be a gentleman of no contemptible parts*, neither devoid of manly independence, nor destitute, but much to the contrary, of general intelligence.

The Standard charges you, not only with your disputing precedency with the Speaker—you are, in broad, set terms, called an *ambitious* Chief Justice—that either you are ignorant of the bounds of the established privileges of your office, or knowing that you deliberately transgress them. Your whole conduct and demeanour is termed *ridiculous*—set phrases and insinuations the most *debasing*, are in heaps upon heaps cast upon, not merely your manners, but your fair fame as a public character, *and meanness of the most despicable description, evincing a narrowness of soul* which it is impossible for the most liberal minded to reconcile to the dignity of your station in society, and your high office, &c.

Having promised to lay before my readers (at page 150,) *a statement of facts to prove, that* Sir JOSHUA ROWE'S *arbitrary and unjustifiable conduct towards me, throughout the*

whole of these trials, had been actuated by an ungovernable malice and revenge, and not from any desire to award justice for the public good. I at once proceed to do so.

Be it then known, that in the year 1832, when Sir Joshua Rowe first arrived in Jamaica, as Chief Justice, I was the senior partner of a highly respectable establishment in Kingston, and did business with the principal characters in the island, amongst whom were, the Earl of Belmore, the Earl and Countess of Mulgrave, his Majesty's Attorney-General, Lord Seaford, the Lord and Lady Bishop of Jamaica, the Archdeacon of Jamaica, and numerous clergymen; several members of the council and Assembly, Sir John Keane, and Sir Willoughby Cotton, Commanders of the Forces, Sir M. N. Nepeon, several Colonels, and other distinguished characters in the army; the Lord Mayor and numerous respectable merchants and gentlemen of the city and parish of Kingston, to either of whom, or to the public records of Spanish Town, I would refer my readers for the truth of this my latter statement.

As I have before stated, early in 1832, on the arrival of Sir Joshua Rowe, as Chief Justice of Jamaica, he was introduced to our establishment as a customer, with whom, of course, I was highly gratified to treat. *Our general terms of doing business was cash, or three months' credit;* but Sir Joshua's appointment to the Chief Justiceship of Jamaica, being from England, and quite against the established rules or laws of the island, (the laws expressly declaring, that no one should be recognised as Chief Justice, but such as had practised at least for five years at the Jamaica bar) created for a time considerable excitement, the Assembly refusing to acknowledge his appointment, and consequently he could not receive (although he did lay claim) the Salary of Chief Justice, which was £5600 per annum. *This being the case, he stipulated with me for a longer period of credit,* and as he expected, that at the meeting of the House of Assembly, which was to have been in November, his appointment would be recognised, and the salary granted to him. *He promised me to settle up accounts immediately, after —say in January,* 1833, which would make nearly twelve months. Fearful, however, that his expectations might not be realised, he proceeded to act cautiously, and only selected absolute necessaries, giving me always to understand, that as soon as his appointment was fully recognized, he should furnish himself with every requisite necessary for his high rank in life.

The principal things, however, that he did take, were not my own absolute property, but the property of others, for he refused to make choice of any of our own new costly furniture but his selections were principally confined to our auction rooms,

in the second hand way, on the sales of which I only received a trifling commission of five per cent., and now, of course, compelled to pay up in cash advances, to the rightful owners, for those very goods, on which we indulged him with so long a credit.

This, therefore, being the fact of the case, and our establishment being a very extensive one, having from sixty to eighty hands, in men and boys, for whom I had great difficulty to find cash means weekly, and withal being but a young beginner in business, I was compelled, as soon as the time stipulated for was up, to render him my account, and press for payment.

In January, 1833, *I accordingly rendered my account*, hoping *and expecting to have had a draft*, without further trouble; but, having waited over the full first quarter of that year, without receiving any payment, I appealed to him from shear necessity, *but instead of receiving either payment or civility, I was severely repulsed*, with not even a promise of payment. Irritated and indignant, *I attempted to expostulate; but only received mischievous threats.*

About the same time, I received a threatening letter from one of our creditors, Messrs. Tory, M'Whinnie, and Co., casting insinuations which were unjust, and which our firm had not merited; and, at the same time, threatening that, unless their account was settled up prior to the last day of summoning, they would send me an action, having made every effort to raise the means of settling off their account, without effect; *I was compelled to appeal to my lawyers*, who were most worthy men—Messrs. Whitehorne and Forsyth—*the senior partner, Mr. James Whitehorne*, being the only one at the time in the island, and who *was*, indeed, *to me a most sincere and valued friend*, one under Heaven who had most disinterestedly taken an active and kind part in my welfare; and from whom I had received the sincerest tokens of confidence and regard, both by his purse and person; *for numerous were the instances* of a Saturday evening, when I was totally unprovided with cash means to pay off my people, *that I appealed to him for assistance, which he as often most generously supplied me with, to large amounts, without the slightest remuneration, save my sincere thanks on returning such.*

On my appeal to Mr. Whitehorne, as my legal adviser, he saw instantly the awkwardness of my situation, and instead of at once preparing my action, which was my request, he endeavoured (*he being on friendly visiting terms with Sir Joshua Rowe*) by means of a friendly interference to get the matter settled without putting me to the expense and annoyance of law; he wrote a very kind note to Sir Joshua, pointing out to him in

delicate terms, the necessity I had been under of placing the account near £200, in his hands to be sued. In reply, he got for answer, some objection as to the prices charged, but finally promising payment in a few weeks. *Shortly after, Sir Joshua sent one of his lawyer's clerks to me, with cash in hand, stating that if I would take off twenty per cent. from the account, he would pay it, but not otherwise.* I refused to do so, so the money was taken back to him, and by his scheming and half-made—but never fulfilled—promises, he managed to evade that Court from being sued.

On my part, I was unable to settle up Messrs. Tory and Co.'s account, but promised them payment as soon as I received payment from Sir Joshua; they, however, insisted upon an admission of judgment, and, in order to prevent a public exposure, I was compelled to grant it them. In the meanwhile, time flew on, and Sir Joshua made no payment, but was known to do every thing in his power to injure our establishment.

On one particular occasion, towards the end of this year, the honorable Samuel M. Barrett drove up to our establishment, with Sir Joshua, and having entered our ware-rooms and given some orders, he told us, that his present visit was, in consequence of the high recommendation he received from Lord Seaford respecting us. Not long after, I believe next morning, we received a countermanding order from this honorable gentleman, he having gone, the same day, with Sir Joshua Rowe, to another establishment, and there given the like orders, and I heard from a friend, that it was in consequence of the solicitations of Sir Joshua that he did so.

Time flew on, *Sir Joshua's hatred became generally known, and another full year passed away, but still no payment was made to me by Sir Joshua.* January, 1834, arrived, and my creditors became pressing for their accounts; but no solicitations on my part could induce this unreasonable man to settle up his account, unless a large deduction was made, and this I would not, because I could not afford so to do. I had discovered that he had done me an exceeding deal of mischief amongst many popular characters; my partner thought proper to pick a quarrel with me: and *I at once determined to get quit of my business for, although lucrative, it was destroying my own and family's peace of mind, and I foresaw would make me a world of enemies.* I had attempted to shake off my connexion, as regards the partnership once or twice before, but found that impossible to do, in consequence of the awful sacrifice that I should be compelled to make; but now that things had arrived at such a climax as the present, I determined upon doing so honorably, however great the sacrifice, and not allow my enemies to triumph.

Early in February, having come to that fixed determination, I sent a circular round to all my firm's creditors, every one of whom resided in Kingston, and a meeting was convened of them the next morning. My books being up to date, and a full schedule of the stock on hand, with all other assets being delivered over, assignees were appointed, and a deed of release ordered to be immediately prepared; this done, I at once handed over my keys, books, stock, and assets to the assignees appointed, who were Isaac Jones, John Nethersole, and Thomas M. Whinney, Esquires, to the tune of £4457, to cover only £2877 of debts, being nearly double the amount of what we were owing; at all events it was more than 30*s.* to the pound, and amongst the assets was the debt so long due to us by Sir Joshua Rowe. The *schedule and release being upon the public records, in Spanish Town, will speak for the truth of the foregoing statement* to all who are curious enough to wish to see it.

I was now, I considered, clear from all the attempts that Sir Joshua Rowe could make to injure me, but his subsequent not-to-be-mistaken conduct, followed up against me, in all the unfortunate actions recorded in this volume, which I was compelled to carry into his court, in self defence, and in order to work a general public good, but too clearly shews how much I was mistaken; and I flatter myself that the foregoing narration will be sufficient to convince my readers that my charges, however grave and deeply it may inflict punishment on his already wounded conscience, by this public exposure, are not unfounded.

☞ To the curious, I would say, read G. F. Wilkinson's "Newgate Calendar" of notorious convicted characters,—say volume 3, page 487, and there they will find *this very Most Noble* THE MARQUIS OF SLIGO, tried and convicted at the Old Bailey, under date 16th December, 1812.

And the sentence then passed upon him, by Sir William Scott was, *that his Lordship should pay a fine to the King of £5,000, and be imprisoned four months in Newgate.*

His Lordship bowed, *and was conducted* by the keepers through the private door *to the gaol.*

Disguise thyself as thou wilt, still, Slavery, said I, still thou art a bitter draught; and though thousands in all ages have been made to drink of thee, thou art no less bitter on that account.

Tis thou, thrice sweet and gracious goddess, addressing myself to LIBERTY, *whom all in public or in private worship, whose taste is grateful, and ever will be so, till nature herself shall change. No tint of words can spot thy snowy mantle, or chymic power turn thy sceptre into iron—with thee to smile upon him as eats his crust, the swain is happier than the monarch,* from whose court thou art exiled. Gracious Heaven! cried I, kneeling down upon the last step but one in my ascent, grant me but health thou great bestower of it, and give me but this fair goddess as my companion, and shower down thy mitres, if it seems good unto thy divine providence, upon those heads which are aching for them."—*Sterne's Sentimental Journey.*

The READER will, no doubt, have noticed at page 54, in my last address to his EXCELLENCY, the Most Noble the Marquis of Sligo, Governor of Jamaica, &c. &c., mention made by me of an affidavit and communication of mine, forwarded to his Majesty's Attorney-General of Jamaica, under date 9th June, 1835, touching an inquest which was held on the body of a *female* apprentice (*late slave*) in the parish of St. George's house of correction, on Tuesday, the 26th of May, 1835.

This being a subject of vital importance for the well-being and happiness of hundreds of thousands of our fellow-beings, but lately immersed from slavery, (in name only as yet) *through the bountiful liberality of the British empire, who, it must be said, have, for ages back, enriched her coffers by the sweat—nay, by the blood and sinews of her black brethren, these still unfortunate bondsmen in foreign climes.*

It behoves every zealous advocate, for free and nnobstructed liberty of conscience, in these enlightened days in which we live, to come forward boldly, and lend his feeble aid to remedy the mighty evils that still exist, and to put down oppression, wherever it be found.

Who, then, so powerful, for such a mighty undertaking (*under Heaven's all-wise guidance*) but those zealous sons and daughters in the British empire, whose voices have of late years been constantly uplifted in the cause, and by whose means the rich coffers of the nation were at length thrown open, and from whence twenty millions of solid gold have been most nobly drawn, to her never fading honour—*For what?* You say *for the redeeming of our kindred from slavery.* But what shall I reply; first I lay before you the sentiments of one of your most *admired pensmen*, in the person of my own near relation, the Rev. LAURENCE STERNE, and *his* sentiments *are but* the sentiments of *millions.* Yea, they must be the sentiments of *every feeling heart*, when he recorded those emphatic words, SLAVERY, *thou art a bitter draught.*

But my reply now is—APPRENTICESHIP! *oh, thou mockery of freedom—a mask for baser matter—a second slavery—thou art, indeed a bitter draught—thou art most truly poison to the taste—oh, thou deceitful tempter—thou promised to be sweet and joyous—to knock off the chains and trammels of a life of misery—but alas, thou lingerest; thou art sickening to the soul; thy promises are deceitful; and thy end is* DEATH.

Having thus prepared the way, and pictured to your fancy the solemn realities of truth. I shall now proceed to lay before

you a few stubborn facts, to bear me out in this most horrid picture. *And to you, my brethren, do I now appeal—whose eyes may chance to stumble on these pages—whose souls may melt at this sad spectacle, and whose hearts and hands would voluntarily arise indignant to join the writer, who has hitherto stood forward single-handed, in this dread conflict, to the entire ruin of his fortune, and without your now generous aid, to the entire destitution of his family.*

So now to my promised work on—APPRENTICESHIP—*late* SLAVERY—*but now* DEATH.

M yreader must now be made acquainted, that through the liberality of the British nation, in giving her twenty millions—*Slavery was to have been totally abolished, and blotted out from every portion of her empire, on the 1st of August,* 1834. This long-looked for happy day—a new æra in the western world arrived. *I, my reader, was one of those who ardently prayed, and looked for its accomplishment;* and, being an inhabitant in a land of slavery, *for more than twenty years, can vouch for facts.* And whilst a heated and *mischievous press,* kept up a terrible apprehension in the minds of thousands—*that fire, blood, and anarchy,* would be the result of LIBERTY. I can, with safety and joy at the recollection, declare, that I looked forward for, and contended would follow—*peace, joy, love, happiness, and grace.*

And I do most solemnly assert, that, notwithstanding the vile calumnies which have been attempted from time to time, to be cast on our unfortunate black brethren, *that they have richly merited the great and noble boon conferred upon them.*

On the first of August, 1834, and until very lately, I was an inhabitant of a populous Country parish, viz. Saint George's. *This parish has been noted in the annals of Jamaica for what is, out there, termed rebellion.* Of this, then, most rebellious parish, do *I now speak, from a lengthy, personal knowledge and observation.*

Being present, I can truly declare, that, *instead of this* terrible 1st of August being ushered in by *fire, blood, and anarchy,* owing to a band of herded savages being let loose from the trammels of slavery, *my most ardent desires were fully realized, by peace, joy, and happiness abounding.* Our little parish *Church,* at Buff Bay, *was crammed* almost to suffocation, *with clean, well dressed, joyous looking, peaceful, liberated bondsmen,* all vieing with one another, *in offering up their grateful acknowledgments to our common Almighty Father, for his merciful interposition in their favor.* And not only was the inside of the church crammed, but *thousands surrounded it, in the open air;*

and though completely out of the sound of the Minister, yet thought themselves equally happy in offering up their own private adoration in presence of that sacred house. And here, my reader, believe me, did these thousands of liberated blacks enjoy themselves *the whole day*, not in feasting and drunkenness, but *in fasting and prayer.*

And, much to the honour, may it here be said, of our zealous and worthy Rector, the Rev. Miles Cooper Bolton, who most ardently laboured the whole long day, in addressing (*besides our Church services*) suitable admonitions for their comfort and edification.

And strongly did he point out to them, by a representation of the journey of the Israelites of old through the wilderness, after their liberation from the Egyptian bondage; the necessity of their shewing gratitude, and faith in our Lord Jesus Christ, by patiently waiting for, and faithfully labouring out, the termination of their apprenticeship.

And I do most solemnly assert, that it is a base LIBEL on these unfortunate and degraded race (who have not had friends to stand boldly forward in their defence) to assert otherwise; *but that they have most faithfully adhered, and zealously followed up this good advice*, and by so doing have not only given the lie direct to their enemies' false assertions, but *have put a lasting honour upon their own credit, and your noble undertakings in their behalf.*

I could set before you *a volume on this head*, but I must cut short, as my work is considerably more enlarged, than I at first anticipated it would have been. *But, if your generosity should only replace my already sacrificed fortune*, believe me, *neither it shall lay idle, nor shall my zeal slacken, until oppression be put down, and every trace of slavery swept away from our shores.*

For the purpose of shewing you more clearly the stubbornness of the facts on which I am about to write, and the false mask cast over slavery, by the appellation of apprenticeship, I shall lay before you a portion of the famous Abolition Act, *which I intend you to scrutinise.*

An Act
For the Abolition of Slavery, passed in Jamaica, in December, 1833.

Sec. 21. And be it further enacted,

That it shall not be lawful for any person or persons entitled to the services of any such apprenticed labourer, or any other person or persons other than such justices of the peace holding such special commissions as aforesaid, to punish any such apprenticed labourer for any offence by him or her committed, or alledged to have been committed, by the whipping, beating, or imprisonment of his or her person, or by any other personal or other correction or punishment whatsoever, or by any addition to the hours of labour herein-before limited; *nor shall any Court, Judge, or Justice of the Peace, punish any such apprenticed labourer, being a female, for any offence by her committed, by whipping or beating her person.*

Sec. 22. Be it therefore enacted,

That all such offences shall be tried in a summary manner before any justice appointed by special commission; and that any apprenticed labourer convicted of absenting himself or herself from the service of his or her employer without reasonable cause, for half *or any smaller proportion of a day,* shall forfeit to such employer not exceeding *a whole day's labour of his or her own time.*

Sec. 23. And be it further enacted,

That any apprenticed labourer, convicted as aforesaid, of being absent without any reasonable cause *for more than half a day,* shall in like manner *ful forfeit* not exceeding *three days labour, of his or her* *church time*; Provided always that it shall be lawful *own* 'e special justice, before whom such com- for th

plaints shall have been heard, on which he shall have adjudged that the said apprentice *shall forfeit three days labor of his or her own time,* and he is hereby authorised and requested so *to divide the said three days labour* as shall not impose the obligation on such apprentice *of working* for more than *fifteen extra hours in any one week,*

Sec. 29. Be it further enacted,

That any apprenticed labourer who shall be convicted, as aforesaid, of insolence or insubordination to his or her employer, shall be sentenced to hard labour in the house of correction or the penal gang of the parish, for any time not exceeding two weeks, or, to receive any number of stripes not exceeding thirty-nine.

Sec. 41. And be it enacted,

That for all offences where punishment by flogging is authorized to be awarded by this act, it shall be lawful for the Special Justices, in case such offences shall be committed by *females,* to sentence such females to solitary confinement for any period not exceeding ten days.

Sec. 44. Be it further enacted,

That all other *inferior misdemeanours,* and other crimes committed by apprenticed labourers against each other, or against the person entitled to his or her service, or against any other person and not herein-before specified, shall be heard and determined before any justice appointed by special commission, reasonable notice of the time and place of such trial being given to the person entitled to the services of the apprentice complained, against, where such person so entitled to his or her services is not the complainant; and such justice shall, upon conviction of such apprentice, order and direct such punishment to be inflicted *as he shall think proper,* not exceeding *fifty lashes,* nor *three months imprisonment to hard labour,* nor *twenty days so-*

litary confinement; Provided, *that nothing in this clause contained, shall be taken to authorise such magistrate to sentence any female apprentice to be flogged or beaten:—* And provided also, that nothing herein contained shall be deemed or taken to deprive any of his Majesty's subjects of his or her right to proceed against any such apprentice in any of the superior courts of this Island, or any court of quarter session or common pleas, for remedy against any apprentice for any wrong or injury done or committed to or against the person or property of such subject: *and provided also, That when any apprenticed labourer shall be convicted of indolence, or neglect, or improper performance of work, the Special Justice before whom such conviction shall take place, may, if he sees fit, sentence the offender, either alone, or in addition to the punishment by flogging, or hard labour, hereinbefore directed, to labour for such number of hours or days, in his or her own time, for the benefit of the person intitled to his or her services, as the justice of the case may seem to require, not exceeding fifteen hours in any one week.*

Sec. 47. Be it enacted,

That from and after the first day of August next, every praedial apprenticed labourer shall be entitled to four hours and one half of an hour, out of the five and forty weekly working hours, hereinbefore-mentioned, for the cultivation of his or her grounds, and such portion of time shall be allowed to each apprentice, &c.

Sec. 59. And be it further enacted,

That from and after the first day of August, one thousand, eight hundred and thirty-four, Saturday in each week shall be the day given to every praedial labourer, provided, that praedial labourers, employed in works of necessity, tending cattle, domestic services, and in protecting property, shall have some other day in lieu of Saturday.

An Act,

In aid of an Act, for the Abolition of Slavery, passed in July, 1834, in Jamaica.

Sec. 5. And whereas,

It is necessary to regulate uniformity in the hours of labour: BE IT ENACTED that on all sugar estates and other plantations, field labour, shall commence with sun rise, and terminate with sunset, giving such cessation in the middle of the day as, with the usual half hour allowed for breakfast, shall reduce the actual time of labour to nine hours in the day: provided always, that nothing herein contained shall prevent the employer and the labourers from making any other arrangement as to the hours of labour, which they may mutually agree upon.

Sec. 6. And be it enacted,

That it shall be the duty of every employer to intimate to the labourers in his or her employment the commencement and the close of the legal hours of labour, by the usual mode of ringing a bell, or sounding a horn, or shell, or any other signal, which shall be always of such a nature as to be distinctly visible or audible to the several praedial apprenticed labourers in the service of any person.

Sec. 21. And be it further enacted,

That if, after the expiration or other determination of the term of apprenticeship of any apprenticed labourer, he or she shall, having three months' notice to quit previously to the determination of such apprenticeship, refuse to quit and deliver up possession of any land, dwelling, or building, which he or she shall have been permitted or suffered to occupy, during his or her state of apprenticeship, to his or her employer or employers, or to any person or persons acting on his

her, or their behalf; every such person shall be deemed and considered a trespasser, and it shall and may be lawful, in such case, for any two justices of the peace, associated together, upon complaint made, and the conviction of the offender, to eject such offender from such land, dwelling or building, and inflict such punishment, not exceeding ten pounds, or imprisonment, not exceeding thirty days, as to such justices shall seem proper.

Sec. 26. And Whereas,

Doubts have arisen as to the precise meaning of the words "crimes and misdemeanors" in the said act, fourth William fourth, chapter forty-one: Be it enacted, That such crimes and misdemeanors as are by law cognizable and punishable by one justice of the peace, when committed by any subject of his majesty, shall be cognizable and punishable, when committed by an apprenticed labourer, by a Special Magistrate.

The Inquest alluded to.

On Tuesday, 26th May, 1835, being at Buff Bay, Saint George's, I was summoned to attend an inquest at the workhouse at 10 o'clock, on the body of a female apprentice, named Anna Maria Thompson. The Coroner, Mr. Robert Dunbar, swore in the following eleven jurors:—

1. John T. Bloomfield,	5. J. E. Anderson,	9. H. Forbes,
2. John L. James,	6. Wm. Ross,	10. J.Cunningham,
3. M. M. Sollas,	7. L. Manahan,	11. H. Sterne.
4. Archibald Bell,	8. A. H. Brown,	

The Supervisor was now asked by the Coroner, what kind of a case it was; if it was a mere ordinary one? He replied, "*A mere ordinary case—something as usual.*" The Jury then proceeded to examine the body.

The body was laid out upon an old door, supported on two casks, rather decently dressed; she appeared to be from thirty to forty years of age, rather robust, strong, and well made, *not the slightest marks of violence, as she then lay.* I was the last Juror that walked in to see her; some of the Jurors had examined her head, face, and hands, and not seeing any marks

of violence, were retiring as I moved up. Having examined her myself as she lay, I ordered two of the workhouse people, who were in attendance, to turn her over, *when, lo and behold, the blood was oozing through her clothes, and, on their being taken off, it was found that her neck, back, and shoulders, down to her spine, were most dreadfully lacerated from flogging. On discovering this, I expressed my doubts as to her being a female, but was laughed at by some of the jurors, and told to examine.*

Considering it a most brutish case, and knowing that the Abolition law *forbade the flogging a female*, I at once made up my mind to sift most fully the case ; and, in consequence of there being only eleven jurors, I suggested the propriety of another juror being sworn, *to make up the legal number of twelve*, which was done by adding Mr. P. Melville, the jury were again sworn, examined the body afresh, and proceeded to hear evidence.

JOHN ALLEN, the Supervisor of the workhouse, was first called and sworn—He deposed that the deceased, Anna Maria Thompson, was committed by Special Justice Fishburne, for insolence to her mistress, *under the 29th clause of the Abolition Act*, for two weeks hard labour, commencing from Monday, the 19th. She had been sent out to work first, on Tuesday last, the 20th. *The President of the workhouse had given direct orders to the driver to use his whip* on his people in his gang, whenever they would not work. The deceased was in perfect health, when she was sent in ; on Saturday night last she complained of pains in her thighs ; understood from the driver, she could not work during the whole of the day ; never noticed the flogging upon her until now ; she died yesterday morning.

The President has given direct orders, to the driver, to flog without any exemption as to females ; but more particularly as to them, they being considered the worst, and most troublesome parties. The Hon. John Bell is the president.

The Coroner here refused to allow the jurors to question witness, and forbid the witness to answer any more questions—and further refused to take notes of part of the evidence, and was quite violent in this determination. In consequence, myself and a few others, decided that we would not proceed further, without having a Doctor to open her body.

This determination on our part, *caused the Coroner, who, by the bye, was Deputy Clerk of the Peace*, to adjourn the inquest until half-past 2 o'clock, p.m., and inthe meanwhile he sent off an express for the Doctor.

It must here be observed, that Tuesdays were the days appointed by the Custos, to meet at the Court-house in Petty Ses-

sions, and the Deputy Clerk of the Peace was compelled to be there—this shows how improper it is, that the same individual should be allowed to hold these two important offices. By the laws of England, a Coroner is not allowed to follow any other profession: and it is disgraceful to see how so high and responsible a post is made a mere sinecure, for money-making in Jamaica. *The same individual, Mr. Robert Dunbar, holds the whole of the following offices in St. George's:—1st. Coroner; 2d. Clerk of the Peace; 3rd. Clerk of the Court; 4th. Schoolmaster; 5th. Planter; 6th; Secretary to the Library Society; 7th. Deputy Judge Advocate for the Regiment, whose musters are monthly, and courts frequent—and other minor appointments.*

This being between 11 and 12 o'clock, a.m.. when the inquest was adjourned, myself, with most of the Jurors, strolled up to the new Court-house; thither the Coroner had immediately gone, *and when I entered the Court-house, I noticed him in conversation with the Custos, Mr. Bell, and Special Justice Fishburne, and I overheard the following conversation:—Here comes that meddling fellow, Sterne.* The Custos replied something which I did not hear; but *Mr. Fishburne said—"I have the Governor's written instructions, directing that they are to be flogged,* if they refuse to work." More I did not catch; but I learnt from one or two of the Jurors who were present, before me, and closer, *that Mr. Fishburne spoke of it, as to flogging the women particularly,* and this was pretty well circulated about the parish, and numbers of women were frequently committed, on purpose that they should get well flogged.

At half past 2 o'clock, p. m., being again assembled, the jury were called over and proceeded with the doctor to see the body opened; I followed him close, and watched him narrowly, for he is an old hand at such things, having been surgeon of that workhouse for twenty or thirty years.

When he saw the body he was completelystruck with astonishment; he said by gad, my lady, you have had a complete dressing. &c. On opening it, which he first did from the nape of the neck down to the spine of the back, and across the shoulders: *he several times shook his head,* making severe remarks, for it was beat to a mummy. He now cut deep into the bone, but there he found the appearances not so bad, and he observed, we will now turn her over and open her bowels. there may be something else the matter with her; so over she was turned; and on opening her bowels, she appeared quite fat and healthy, but her bowels were perfectly empty of all but wind, *and towards her back and kidneys were in a high state of inflammation.* Aye, cries the doctor, there it is, inflammation of the bowels. So having washed his hands, we again assembled above.

DOCTOR WILLIAM ROBERTSON was now sworn—(the following are the exact notes of the different witnesses' evidence, as taken down by me at the time)—*On dissecting the back of the woman, I found that a very severe flagellation had been inflicted*; but on opening the body, I found she had had a very severe inflammation in the bowels, which, in my opinion, caused her death; inflammation of the bowels and liver, and the abdomen in particular; the membranes covering the liver, might have arisen from cold; could not have been caused by poison; *the flagellation might have brought on fever*, but could not have caused the inflammation in the bowels.

JOHN MOODY, the driver, who is a convict, sworn—Mr. Allen ordered me to take her out to work on Tuesday; she said she was not used to work her hoe; she refused to work, and I licked her; she hardly dug two holes all the day; complained of pains; she went out to work every day until Saturday, and on her way to the field, she sat down, complaining of pains, and I licked her, to make her get up; she was obliged to be carried home; was working all the time at Buff Bay river estate; was very stubborn; saw her last on Sunday night; she had no fever; I flogged her four times; gave her a walking-stick to assist her up the hill on Saturday; I left her at home on Monday; gave her a dose of salt water on Sunday; Park had command of her and the gang on Friday.

CATHERINE MURRAY, a nurse to the work-house—She at first refused to take the book, but subsequently did, and was then sworn—*I attend to the sick*; saw deceased on Sunday; she was sitting down in the jail, in the morning, very well; she died yesterday; *did not attend to her*; never knew her before she came into the jail; I live in the yard; never heard any talk about her getting such a flogging.

ROBERT LITTLEJOHN, a boatswain of the workhouse, sworn—Asked deceased about breakfast time how she was; she complained of her thighs; she did not eat yesterday; did not complain of fever, or flogging; complained of pains in her knees—I went for grass on Monday morning; when we came back with the grass, found her dead; knows of no blows given to her.

BETSEY WARDEN, an apprentice from Bybrook estate, who had been sentenced for one week to the house of correction, sworn—I was working in the gang with deceased; *was chained neck and neck to her*; she could not work, and the *driver, Moody, flogged her every minute—every now and then—Saturday particularly*; I was with the gang on Friday; Park had the gang; he did not flog her; but *Moody flogged her on Saturday; she could not work; was digging cane holes at Buff*

Bay River estate ; Moody flogged me and the deceased ; she could not eat her victuals ; but drank a deal of water ; was with her all day on Friday ; sure Park did not punish her at all ; *she was carried home from the field on Saturday ; and was then released of her chains ; but died on Monday morning.*

Here I questioned the witness about her own flogging, and she said because she was unable to dig, so as to keep pace with the rest of the gang, *the driver beat her with his double whip repeatedly ;* she appeared young—not more than twenty years old—but was quite thin and emaciated from weakness—in order to come at the truth, I called upon her to make bare her back. and shew the Jury, which she did, and *her back and shoulders appeared to have been most sadly beaten,* swoollen, bruised, lumpy, and discoloured unnaturally, though not cut into, as with a lash, *Doctor Robertson went up to her, and examined her back ; and; much to his honour, be it here recorded, he spoke very feelingly against the treatment too often encouraged in those workhouses, and, pointing out the jury to the witness, he continued to say—would any man attempt to tell him that either she, or objects like her, were fit subjects to be sent into the workhouse for hard labour. Impossible, continued the Doctor, they are more fit to be sent out for change of air, or to receive nourishment ; and yet these are the kind of subjects that are constantly being sent in to die here ; and if she is kept here for another week, she will be dead also. I have represented it constantly to the vestry, continued he, so as to prevent any other but able people, who can stand hard work, from being sent here ; but it is of no use—my representations have been never attended to, and so we are constantly having inquests in this workhouse.*

The Coroner here called upon the Jury to make up their minds as to the verdict, as the Doctor's examination was closed.

I said yes ; this is a very good reason why the Coroner has acted the part towards the Jury as he has done this day ; in attempting to stifle enquiry. Why, to be sure, if we succeed in putting a stop to such atrocities, it will ruin his harvest ; for he gets £5 6s. 8d for each inquest, besides 1s. as mile-money, for every mile he goes about it.

The Coroner cried out—What, Sir, dare you insinuate that I am actuated by any such motives ?

I replied, that I was speaking to my brother Jurors; that we were there assembled on our oaths, to sift thoroughly the case, and that his duty was merely to receive our verdict, and not to interfere in our examination of the witnesses, and that moreover the case spoke for itself, however he might relish it.

It was now apparent that the majority of the jurors were in a hurry to close the business, and felt inclined to determine the question, by saying, that we could bring it in no other way than that she had died of inflammation in the bowels.

Myself, Mr. Sollas, and Mr. Brown, quite differed from that opinion; so the Coroner called out to the foreman, Mr. Bloomfield, to retire and decide the question; stating, that he need not be long, as he had only to take the majority, and that would decide the question.

This was done in the course of a minute, and we returned to the Coroner, the foreman giving in the verdict—"That the deceased had died from inflammation in the bowels." *At this, myself and Mr. Sollas spoke out warmly, backed in opinion by Mr. Brown, that we quite differed on that point; considering, that although the inflammation in the bowels might have been the more immediate cause, yet, that the dreadful flagellation brought that on, and consequently we could not consent to join in such a verdict.*

The Coroner insisted that we, as the minority, must sink into the majority. We decidedly said we would not agree to any such a verdict. *The Coroner then threatened us with an indictment, if we did not; but we held together, stating, indictment or what not, we would never compromise our oaths on such a point, for any thing, let the consequences be what they may.*

The Coroner was quite violent, and he made the nine jurors sign their recorded verdict; calling upon us to follow their example, but this we still refused to do. He then swore the nine to the returned verdict, and closed his court, vowing to prosecute us for the part we had taken.

By the post, the Coroner wrote to the clerk of the crown and Mr. Attorney-General, his version of the affair, requesting that indictments might be sent out against myself and Mr. Sollas, for insulting him, as he termed it, &c. &c. Mr. Attorney-General, I was given to understand, addressed the Custos on the subject, so as to get full particulars, and it was generally circulated that we were to be indicted. *Accordingly, that the matter should not be so shamefully smothered, I drew up the following affidavit; swore to it before Mr. Bell himself, who read the same, and then forwarded it, with full particulars, to Mr. Attorney-General, thinking, thereby, it would work a great public good.*

The Affidavit,

Jamaica Ss.
Saint George's.

HENRY STERNE, of the Parish of Saint George, gentleman, being duly sworn, maketh oath and saith,

That the annexed is a true copy of the notes taken down by him, as given in evidence at an inquest held on Tuesday, the 26th of May last, at the workhouse in this parish, on the body of a female apprentice, named Anna Maria Thompson; and that the said deponent fully disagreed with the majority of the jurors on such occasion as regards the finding of the verdict, which the Coroner on such occasion received and recorded.

And this deponent further declares, that in his opinion the true cause of the deceased's death was owing to the very cruel and uncalled-for BEATING *and* FLAGELLATION *inflicted on the deceased by the driver of the workhouse gang, which so exhausted her powers, and the drinking repeated draughts of cold water, brought on the severe inflammation in the bowels, which finally put an end to her life.*

And this deponent further declares, that there were two Jurors likewise on such occasion, who also differed with the verdict, as recorded by the Coroner, and who, with himself, refused to sign the inquisition.

So help me God,
HENRY STERNE.

Sworn before me, this 9th day of June, 1835.
JOHN BELL, S. S.

Mr. Sterne's letter which accompanied the foregoing affidavit, &c. to Mr. Attorney-General—

DOWEL O'RILEY, ESQ.

Respected Sir,

Understanding that you have made some enquiry respecting the severe flagellation inflicted on a *female* apprentice, who died in the house of correction on the 25th ult., and on whose body a Coroner's inquest was held, whereon I was a juror, I beg to hand you the annexed memorandum of notes taken down by me at the time, and my affidavit respecting the truth of the matter; unfortunately, I must say, myself

and two other jurors, were compelled to disagree as to the verdict of the majority of the jurors on this occasion: *on the other hand, if this dissent from their opinion shall be the means of correcting any encroachments on the law to the injury of my fellow-being, I shall not regret it in the end.*

It is necessary for me to say that I have not, nor had I the slightest idea that when the president of the workhouse gave orders to the *driver* to inflict punishment on the *women* when they *would* not work, ever anticipated the flagellation on the *females* should be extended to that degree that the driver, at his *own discretion*, was pleased to inflict on the deceased. Had the verdict of the *minority* been received, his Honor, as president, would have been enabled to have disabused the drivers mind from the impressions he now *labours* under, that he is justified in inflicting the punishment, be it never so severe (as was the case in point) this verdict not being received, he still *persists* in that line of conduct *which, I fear, unless looked into, will cause many poor creatures the loss of life.* I am satisfied you will, Sir, give this case all the attention that it merits, in which I shall feel happy to tender any information in my power that you may require.

I remain, respectfully,
Your obedient servant,
HENRY STERNE.
Buff Bay, 9th June, 1835.

P S.—The driver is a convict.

To this letter I did not receive any reply; but when the August Surry assizes came round, the doctor and the whole of the nine jurors, with one or two other persons, were all served with crown subpœna's, to attend the court as witnesses against myself and Mr. Sollas; *and if the reader will refer to page* 175 *he will there find the very Coroner, Mr. Dunbar, giving evidence against me, in the case of Sterne v. White, at this very court that he was now striving to prosecute me, on his own account under cloak of the crown; and this will, in some measure, account for his vindictive evidence on that occasion,*

When, however, the Coroner appeared at court, Mr. Attorney-General altered his mind, and refused to send in an indictment to the grand jury against us, knowing, of course, that there was no ground for one. At this the Coroner was in a great rage and felt exceedingly ashamed *(and no doubt this operated against me in his giving evidence in Sterne v. White)*; but there was no help for him, so he had to send back all his crown witnesses, empty-handed, as they came.

On the evening of Tuesday the 18th of August, after court hours, I attended upon Mr. Attorney-General, at his lodgings with my brief, in Sterne v. Swire and others, in consequence of my two previously retained counsel being too ill to attend court, and whilst with him, he acquainted me with Dunbar's urgent wishes for him to send in an indictment to the grand jury against myself and Mr. Sollas, but that he had refused doing so; however, as he was so urgent, he told him, that he was at liberty to do it himself at his own private expence, if he thought proper, but that he would not do so as Attorney-General.

On this I represented to him the real case, pressing strongly upon him the fact of Special Justice Fishburn's having been heard to say (see page 248) *that he had the Governor's written instructions, that the women were to be flogged when they refused to work.*

And here I must say, for the honour and credit of Mr. Attorney-General, he did not seem at all to countenance it; *for he exclaimed, why, that is more than he dare do; it is directly against the act.* I replied, such is the fact though; and I wish you would take the case up: in my opinion you ought to indict the Coroner and Mr. Bell, but he shook his head; and this conversation helped to convince me in thinking that the charges which the public press was daily making against Lord Sligo and Sir Joshua Rowe *were true*, viz.—that Sir Joshua Rowe was acting as Lord Sligo's legal adviser, instead of His Majesty's Attorney-General.

This monstrous shameful case has been allowed to pass by unnoticed.

Another Inquest,

On the following week to the aforementioned inquest—say, on Thursday, 5th June, 1835, I was summoned to attend an inquest on Lennox estate, on the body of an apprentice; but not having a horse in the stable at the time, I did not attend; but I learnt from some two or three of the Jurors who sat at the inquest, *that the following facts came out in evidence*, viz.—That he was the head cattleman on that property, and *that he had hanged himself, in consequence of the Special Justice having had him flogged;* that he was a prime able young man, one of the very best negroes on the estate; that, since the passing of the Abolition Act, some of his boys, who used before to assist him in minding the cattle, had been taken away from him, and, in consequence, he was unable to manage them; that, during Special Justice

White's time, on a certain trespass of the cattle on some canes, he was brought up and flogged; that he used his endeavours with the overseer after his flogging, to get himself put into the field, instead of tending the cattle, but he was refused, and still compelled to mind the cattle; that, on this, he was heard to vow, that if he was ever brought up and flogged again, he would certainly hang himself.

This unfortunate case did occur. The cattle now again trespassed, and he was brought up before Special Justice Hewitt, and was again flogged; that, after receiving the flogging, he went down to the book-keeper in the still-house, and begged him a glass of rum, which he got given to him; that he then bid the book-keeper good-bye, declaring he would not live any longer to be so disgraced, and, sure enough, went out and hanged himself.

Having learnt this dreadful account, I spoke of it to several of my friends, citing it as a case against the badness of the apprenticeship system. A few days after this, one of the book-keepers from Lennox Estate called at my house, and I again heard the fact corroborated, with additional information. I went over to Kingston, and spoke of it there to several of my acquaintances, and particularly to the Lieutenant-Governor, Sir Amos Norcot, thinking thereby he would speak of it to Lord Sligo, and the exposure of it might do good.

Shortly after, great fuss was made in Saint George's, by Special Justice Hewitt and the Overseer of the Estate getting a number of affidavits drawn up respecting it, which were forwarded to Lord Sligo, to counteract, as was termed, my report made to England (*a mischievous lie, because I never made any written report at all, only spoke of it as aforestated.*

The then Overseer of the Estate was on intimate terms with me, and I looked upon him as a very mild young man; he was but a new comer to the estate, and was not the one who had the man punished in the first instance.

On the next muster day he taxed me about the report, it having been so reported that he was the overseer alluded to throughout, I related to him all that I had understood and spoken of the matter as aforewritten, and, at his particular request, wrote the following letter as to the conversation I had had with his book-keeper.

TO JAMES M'CALL, ESQ.

Buff Bay, 18th July, 1835,

Dear Sir,

For your information and satisfaction, agreeable to my promise, I take leave to commit to paper the sub-

stance of the conversation between myself and Mr. Nicholas Brown, *on the subject of the unfortunate man, who had hanged himself on Lennox estate, after receiving corporal punishment, some weeks since.*

Mr. Nicholas Brown called at my house early in the day, a day or two after the inquest had been held, and knowing him to be living on Lennox Estate, I said to him, "So you have had an inquest at Lennox?" He replied, "So he had learnt; and an unfortunate case it was; for he was a fine man—without exception, one of the best people on the property—indeed the estate will feel it, for he will be a great loss to the property."

He then, of his own accord, gave me a general account or description of his character—representing him to be a sensible and valuable individual. He stated him to have been the head cattleman on the estate, and that he had received corporal punishment once before since the new law had come into operation, by orders of Mr. White; and that at this time he swore, if ever he was flogged again, he would put an end to himself. *That, after receiving this first flogging, he had gone to his overseer, and intreated of him to release him from minding the cattle, and put him to the field, stating that it was impossible for him, or half a dozen more with him, to keep them from straying and trespassing*, pointing out the extensive run of pasturage, and that the walls and fences were all down—and that, as most of the pastures were in high bush, it was impossible any one night, to collect in the whole of them—some would be left out; *and that, if his overseer would only give him his hoe and put him to the field*, he should never have cause to complain against him; that he would carry on his roe the 1st of the gang. *This request of his was rejected*; and he was made still to attend on the cattle.

Mr. Brown, in continuation of his character, stated, that one evening after he, as head cattleman, had penned his cattle, the wainmen, who had got twelve cattle at work in the wains, dropped their wains, and turned the cattle loose in the yard, instead of taking them to the cattle-pen.

That the man—*the deceased*—having heard of it, came to see about them. Meeting the wain-boy, he ordered him to go back, and drive the cattle to the pen. The head wainman was a brother to the boy, and he took part for the boy, and said he would not allow him to go. On this deceased said he would make the head wainman himself take them, as it was his duty. So there was a contention between them, and deceased stript off his shirt, and had a battle with the wain-man. That, on this, the second driver came up, and interfered—and deceased also fought with him, and that whilst this was going on, the overseer sent down and put him into the stocks. He, being thus put

into the stocks, of course had it not in his power to pen the cattle; and the others, viz.—the wainboy and man, refusing to pen them, they were left to themselves, and trespassed into the corn-fields, for which trespass deceased got the blame.

The foregoing is the substance of the conversation, which left on my mind an impression of great hardship. It is necessary, however, on my part, to inform you, that when I made use of this information of Mr. Brown's, during some discussion of mine with certain individuals, it was merely to prove the propriety of my opinion of the mischiefs arising from the present system of apprenticeship; and that part of the information which I have dashed under (here printed in *italics*) were the most particular points that fixed my opinion of its hardships.

Should Mr. Brown deny any particle of this *conversation*, and if it is your wish, I shall be ready and willing to make my affidavit to it.

I am, dear Sir,
Your obedient Servant,

HENRY STERNE.

I heard nothing further from Mr. Mc' Call about this matter; but, two days after, Mr. Nicholas Brown waited upon me and said, that in consequence of my letter, Mr. Mc' Call his Overseer had discharged him from the property, and, as he thought he would now become a marked man unless he could shew the facts of the matter, he requested of me to oblige him by giving him a copy of the letter which I had written to Mr. Mc' Call, so as to shew his (Mr. Brown's) friends; accordingly, as I wished the young man well, I sat down and wrote out a copy of the foregoing letter, which I inclosed to him in the following:—

TO MR. NICHOLAS BROWN.

Buff Bay, 20th July, 1835.

Dear Sir,

At your request I annex you copy of my letter to Mr. Mc' Call, on the subject of the conversation which passed between yourself and me, respecting the unfortunate negro who hanged himself on Lennox Estate,

What I have therein stated, is the substance of the conversation that passed; and I freely acknowledge, that when you held such conversation with me, I had not the slightest impression

on my mind of your stating such from any ill feeling whatever to Mr. M'c Call, or any one else, but only in the way of giving your expressions vent, as to the regret you felt for the unfortunate man.

I must likewise freely exonerate you from any allusion to the trial of the man for which he got punished, and afterwards put an end to his life, as was adduced at the inquest, as you distinctly stated you were not there, but had been out for change of air for some days.

And I myself must take this opportunity of explaining, *distinctly*, what I have spoken to others as regards your information. I have confined myself strictly thereto, without either reference to the trial *further than what was adduced at the inquest, viz., that he had been punished, and that he took it to heart and went away, and hanged himself.*

If your conversation as held with me are matters of fact, I see no cause why Mr. M'c Call, or any one else, should be offended at your having spoken of it.

But, allowing such not to be the fact, but a made-up story of your own, I should certainly say you leave yourself open to severe censure. In hopes, however, that you can sufficiently clear this up satisfactorily,

I remain, dear Sir,
Your most obedient Servant,
HENRY STERNE.

Encouragement for Marriage,

The following is another case of monstrous atrocity committed by Roger Swire and others, upon the persons of DAVID SHERIFF, ROBERT FISHER, and FANNY WALKER, three free blacks, who had been formerly slaves upon Gibraltar Estate, and became free by their purchasing themselves, about two years since.

These three poor helpless blacks were very honest, quiet, and peaceable people, and were attached to the Society of Baptists, connected with the Reverend Mr. Barlow's Chapel, at Annotto Bay: the whole three were lawfully married to three slaves on Gibraltar Estate, and it appears, that the overseer was both jealous and annoyed at their so purchasing their freedom. He also being a sworn enemy to the sectarians, gave orders that those *Baptists*, as they were termed, should never be allowed to set their feet on the property.

It appears that the whole three were, as I have said, lio-

nest and industrious—they had houses at which they lived at Annotto Bay, about one mile from Gibraltar Estate, but frequently at night used to visit Gibraltar Estate ; *the men to see their wives, and the woman to see her husband; but this only source of domestic happiness was forbid them,* and they were strictly charged, under pain of imprisonment, &c., never again to set their feet on the property.

The overseer, to enforce rigidly this abominable command, set his constable to keep nightly watch for them ; and one night, early in July, 1835, the constables noticed, after dark, the two men going to their wives ; and the woman going to her husband's house.

The constables told them, that they had received orders from their overseer, if ever they saw them on the property again, to lay hold of them, and bring them before him. Accordingly, they accompanied them to the overseer, *who no sooner saw them, than he made the Constables lock them up in a prison for the night* ; and in the morning, he had them carried before a magistrate; viz.—Adam Gray, Esq., who happened to be concerned for that estate, by being a joint receiver in Chancery. *Mr. Gray, who is a very worthy good man, was somewhat awkwardly placed, and wishing to dispense justice to the satisfaction of all parties, told these poor people, that they were transgressing the law by still persisting to visit the property, after the overseer had given them due notice never to go there again. The poor people stood aghast at such astounding words, and pleaded their marriage and connection, their children, &c. Mr. Gray, assured them, that the law was peremptory and made no provision for such cases,* and concluded by advising them, on the Tuesday following, to appear before the sitting Magistrates at Buff Bay, and he would order the overseer to appear there also, and state his case, and then they would have an opportunity of hearing the law read to them by the clerk of the peace. The poor people now left him.

On Tuesday, the 14th day of July, 1835, these three unfortunates, little dreaming of their coming doom, appeared at the Court-house Buff Bay, before the then sitting magistrates, who were ROGER SWIRE and WILLIAM HEWITT, the latter of whom is a Special Justice. They were charged by the overseer with trespassing upon Gibraltar Estate, and though he had not the slightest charge of any kind against them, further than that he had forbid their ever setting their feet upon that property; and although they, on their part, represented that they were lawfully married people, and only went to visit their own families; *yet, did these pretty judges sentence them, for so*

doing, to thirty days hard labour in chains, in the Saint George's workhouse.

On the second Tuesday after their commitment, I received a friendly letter from the Rev. Mr. Barlow, by the hands of one of the deacons of his church, acquainting me with the case, and requesting of me, *as a friend in the cause of religious freedom, for which I was known to be a zealous advocate,* to visit the unfortunates with the bearer of his letter, and to send him the full particulars of their case.

I did so, demanding from the jailer a sight of their commitment, when, lo and behold, to shew the illegality of their proceedings, he had them in chains, both feet in the stocks, and close confinement, for they had refused to work, being free subjects. Up to that period, which was fourteen days from the time of their commitment, without any legal committing document at all, further than a memorandum, signed by ROBERT DUNBAR, as Deputy Clerk of the Peace, stating that they were to be held at hard labour for thirty days, under the Vagrant Act.

This precious document I copied, and sent to Mr. Barlow with a full account of the illegal proceedings against them, strongly advising him to take up their case, and prosecute the Magistrates for false imprisonment.

I was very unwell that day, and remained very ill the remainder of the month, and, in the following month of August, I attended the Assize Court, on my own law business, and then, at the request of the Rev. Mr. Barlow, waited upon Mr. Anderson, the lawyer, and gave him a full statement of the case, but he declined taking it in hand, in consequence, he stated, of his being the solicitor of the parish, and of course of the magistrates.

He, however, handed it over to other lawyers, Messrs. Dallas and Duff, and I saw Mr. Duff respecting it; he gave me to understand, that they would undertake the case.

My own actions at law fully occupied my time; and before the time came round of sending out the actions for the October grand court, *my second case of Sterne v. Swire and all, had been tried, wherein the jury found for the defendants, and I had to pay their costs, of £101 13s. 4d., besides my own. This so alarmed Mr. Barlow and the deacons of the Baptist church, at Annotto Bay, that they thought it best to allow the poor sufferers to pocket the affront and send out no actions, lest Sir Joshua Rowe should serve them as he had served me.*

So this very gross and outrageous case was obliged to remain unredressed.

Women Flogging.

We now come to this very nice question, which has caused much bickering between the Honourable House of Assembly, and the Marquis: *and now, to prove that flogging of females did exist* long after the Abolition Law had passed, I annex the following account.

It will be seen, on reading the account of the poor woman who had received such an unmerciful flagellation in the workhouse; that the President had given orders to the driver of the workhouse to flog the women; and that the President was the Honourable John Bell.

Now, the case in point is—that the Honourable John Bell was in the habit of getting several of his women frequently sent to the workhouse; and, though he did not get a direct written order sent with such women to be flogged, yet this driver knew perfectly well the intention, and did not spare them. On the Tuesday which followed the inquest of the poor woman—say *Tuesday, the 2nd of June—Mr. Bell got Special Justice Fishburne to commit no less than thirteen of his women from Woodstock Estate, for three weeks to hard labour, in chains, in the workhouse. The gang used to pass my house frequently during the day, and I witnessed these women, or most of them, with their backs bare, and blood running from some, with marks of severe flogging.* And I remember their having got so well flogged, that the Honorable John Bell did not allow them to remain in the work-house the whole three weeks, but released them on Sunday, the 7th June, only keeping them there five days.

And, more than that—I have had these people complain to me, that they were absolutely flogged on his estate by the driver.

Thus I know, and have proved, that flogging of the female has been carried on to a very great degree under a cloak, *since the abolition of slavery.*

Gross Outrage on a Female.

The following gross case took place on Kildare Estate, in Saint George's :—

On Tuesday, the 4th of August, 1835, Bella Phelps, a female apprentice belonging to Kildare, came to me, complaining,

and entreating of me to intercede for the release of her daughter, Betsy Young, under the following circumstances:—

Betsy Young, being an apprentice to Kildare (and has three young children,) was in the field. at work, digging cane-holes, on the morning of Thursday, the 30th of July, 1835. Now, it appears that digging cane-holes is a very arduous undertaking. Mr. Lemasney, the overseer had, upon this occasion, put some of the second gang people with the great gang, and so ordered the holes to be doubled by one able great gang man with one of the second gang; and the whole were put upon task work—the whole were thus allotted off, except this Betsy Young, and a little girl from the second gang—so these two worked separately, each taking a separate hole—they considering, of course, that their task would be half the number of holes, which had two diggers to them—so they worked on. But, after breakfast, it appears, when Lemasney, the Overseer, rode out to see the gang; he called upon the driver, James Helps, (who also gave me this account, besides the poor girl's mother) and asked him the reason why the woman and the girl were not digging as partners together, and ordered the woman immediately to go and assist the girl, whose row was at the time a good way behind. *The woman, Betsy Young, replied, that she could do no such thing; that she was but a poor weak woman herself, having a number of young children, and that she would keep to her own row, and dig out her task.* This put Lemasney into a terrible passion, and he ordered the driver to take her home, and put both feet into the stocks. This was immediately done; *and she was so confined, with both feet in the stocks,* commencing on Thursday, 30th July,

All day Thursday—and Thursday night.
All day Friday—and Friday night.
All day Saturday—and Saturday night.
All day Sunday—and Sunday night.

And, on Monday morning, she was taken out under a guard to work in the field—kept at work there all that day, and, on Tuesday morning, the 4th August, was taken out and carried before Special Justice Hewitt, at Buff Bay Court-house, and she was then committed by Mr. Hewitt to chains and hard labour in the St. George's workhouse, with this appendage to her sentence, that on her coming out of the workhouse, she was to work for the estate, as many of her own Saturdays as there were days lost to the estate by her being confined in the stocks, at the orders of her overseer.

This was the nature of the release that the poor mother had supplicated me to intercede for; the case appeared so

gross, and so contrary to law, that I was particular as to proof, making up my mind, if it turned out to be true, to lay the case before the Governor; and it was at the instance of the mother that the driver waited upon me, and corroborated her statement, still telling me, that many others could do the same, as also the hot-house doctor of the estate, whose duty it was to keep the keys of the stocks, and see her get her meals: and moreover declared, that the woman was not at all impertinent to Mr. Lemasney, further than as I have stated, refusing to leave her own row.

I took the whole of the foregoing down in writing, and waited upon Special Justice Hewitt with it, which, after he had perused, he told me it was true; but that Lemasney had received his sanction to keep her so long confined, having sent off an express messenger to him (Hewitt) on the Thursday morning, and he being otherwise engaged, he could not attend before.

Thus the Special Justice, so excusing Lemasney, I thought it useless to represent the case to the Governor.

Saturdays.

Saturdays are the days fixed upon by law, as the particular set apart day for themselves—and very wisely, for this reason—that they shall have no excuse for infringing on or polluting the Sabbath, by labouring in their own provision grounds on that day.

Now, many of my readers might not be aware, that in Jamaica the negroes have nothing whatever to eat, except their ground's provisions, which they cultivate in their own hours and in their own grounds. Thus the different families, after working the whole first five days for their masters, receive the sixth, which is Saturday, to work for themselves; *and it is not for themselves either, for if they had not that day to get to themselves victuals to eat, their owners must naturally find them in provisions; or else they could not live to work for them—so that, in truth, the whole six days they labour for their owners.*

Now, as I have said, the object of the law in fixing on the Saturday for them, was to enable them to preserve holy the Sabbath day, and have an opportunity of going to Church, to hear the word of God.

But oh, my countrymen, *this blessing*—this precious boon, for which I have oft and oft spoken of, and contended for in Jamaica, *has been lost upon them.*

Saturday is the marked out day—(*in Saint George's, I can vouch for having seen with my own eyes repeatedly, whole gangs at work till quite dark of a Saturday night,*) for punishment—the slightest fault, an half hour lost in turning out in the mornings—an arduous task work set, and not fully performed—any such as these, and they are condemned to loose their Saturday—*and not one Saturday, my countrymen, but a succession of them*—I have grieved too oft to hear the sad accounts.

On Spring Garden Estate, the property of John Rock Grossett, Esq., where Mr. Swire is the overseer, a driver named REECE, *a good Christian man, who has partaken from the same cup at the communion table as myself,* early this year, 1836, came to me to complain, and to seek advice, stating that, in consequence of his not having forced the gang under his command to complete a certain quantity of task-work allotted, he *was sentenced by Special Justice Hewitt to forfeit no less than twelve Saturdays in succession;* that he had worked three then at the time he complained to me, and had gone to Mr. Swire interceding to be pardoned for the remainder, and had pointed out to him that *he had a number of young children, whom he had to provide meals for, and that he was a communicant in the Church, and dreaded the desecration of the Sabbath day.*—But that all this had no effect upon Mr. Swire, for Mr. Swire insisted upon his still working out the number of Saturdays, according to his sentence. And so this poor man came for advice, to me. *I was grieved at heart for him, but I was powerless, save in a spiritual way. I dared not, for the life of me, advise him to act otherwise than submit patiently.* I was compelled to act here, as at all times, with the greatest caution for the least indiscretion on my part, would soon have given my enemies around an opportunity against me; and they knew full well how I took my stand, and set my face so entirely against such malpractices: these poor people (the apprentices) knew all this and loved me: and a word or two in a spiritual way of comfort from me on such occasions, was like oil poured upon their wounds—they were comforted—they would return home in peace, blessing God at the idea that they had Christ as their Saviour, and that he was working all for their good. *I read the 44th clause of the law to poor Reece* (reader look to it) *and told him the law was there giving the Special Magistrate the full power* (oh, how shockingly abused,) *advised him again to petition Mr. Hewitt, and if he could not get pardoned, by no means to resist working, but to stick to it with patience and prayer, looking to God for*

the result—that he would be more than amply repaid for his faith and patience in the day of account. The poor man sobbed aloud, blessed me, and promised faithfully to adhere to my advice, which I believe he fully did.

Another case of almost a similar nature occurred on Lennox Estate, in St. George's. Early in 1836, also, *the two head drivers, and head carpenter, came down to me together, on a Sunday morning, for advice.* I asked them why they came to me?—how could I help them?—why did they not go to the Special Justice? They replied, that it was of him they had to complain—that they had no friend to look to—that there was no one in the parish, save myself, of whom they dared ask advice, and that they had heard I was their friend. I said—but, my good people, do you not see how I am beset—enemies all around me—at law with the Magistrates—ousted out of my wharf, my furniture and property levied on for fines; and then if these people find you are coming to me with complaints, they will swear that I am secretly advising you, and I shall be ruined. *They replied, "Never mind, Sir; though all be against you, you have God as your friend, and if he is with you, none of them can hurt you."* I said yes, that is very true; he it is that has stood my friend, and has promised never to forsake those who put their trust in him; but then I must not presume upon that promise, but must do my duty to my fellow-men faithfully. They replied—Certainly, Sir, we know that; and we only want you to advise us, and tell us if the Special Justice is right in so punishing us; and if he is not, we wish to go over to the Governor. And then they told me, *that, in consequence of some of the people turning out late in the morning to work, and the Overseer complaining, the whole of both gangs were sentenced to forfeit three months of their Saturdays, or twelve Saturdays in succession.* This appeared to me a terrible hard case; but this Estate had been noted in 1835 for punishment. It was on this estate that the head cattle-man had hanged himself, so, knowing all this, I was compelled to act the more cautious. Thinking that most likely great blame was attributable to themselves, I read the 44th clause of the law to them, and told them, however hard their case, the law gave the power of inflicting such punishment, and therefore there was no help; but advised and entreated them for the future to be more cautious—to try and make friends with their Overseer, and to seek his good will; and that, if there should be a few obstinate evil-disposed people in the gangs, and they disobeyed the rules to represent them to the Special Magistrate for punishment, and not make themselves and the whole gang liable for their ill-conduct. These poor people thanked and blessed me most cordially, promising faithfully to abide by my good advice for

the future, *and intreating of me not to communicate abroad of their having thus been with me, as they did not wish it to be known.*

Thus, were I to go on, I could multiply cases of fact almost countless; but, considering the foregoing few quite sufficient for my purpose, I now propose to close my volume, intreating of such of my readers, who have an interest at heart in the cause of humanity, not to slacken their zeal on behalf of these, their Black Brethren, and not to be under any impression that they are ill-deserving of their liberality; for I pledge myself, from a twenty-one years' experience, that they are fully deserving of the great boon they have received; and I further pledge myself, that, when the apprenticeship shall have fully ceased, they will, by their peaceable, honest, and industrious habits, fully realise the utmost expectations of their friends, to the confusion of their enemies.

FINIS.

Sterne's
Solemn Declaration.

I, HENRY STERNE, who, for the past twenty-one years have been a residenter in the Island of Jamaica, by birth a native of Somersetshire, in England, but at present a residenter of the City of London, Esq. do solemnly and sincerely declare, that the annexed volume, purporting to set forth "A statement of facts, submitted to the Right Honourable Lord Glenelg, His Majesty's Principal Secretary of State for the Colonies, of certain grievances committed upon me, under the administration of His Excellency the Marquis of Sligo, the late Governor, and Sir Joshua Rowe, the present Lord Chief Justice of the Island of Jamaica, *has been wholly compiled and put together by myself, in the form now submitted to the public, at my own entire cost and charge.*

That, having been a zealous advocate in the cause of religious liberty, I have been a marked object for destruction by a party, opposed in every shape to the free exercise of religious freedom, or the enlightenment of the liberated slaves; and have been contending for the past two years, with justice on my side, against a host of powerful enemies.

That, having been calumniated by a portion of the public press in Jamaica, who, backed by the powerful countenance of his Majesty's Attorney-General, Mr. O'Reilly, and the Chief Justice, Sir Joshua Rowe, in distorting and misrepresenting the evidence of a witness, on purpose to serve such party, and to gratify their own unmanly ill-feeling, *I have been basely plundered of my rights and property.*

That by such portion of the Jamaica Press, and party, *I have been held up to the public there as a spy—as the agent of the Anti-Slavery Society in England and consequently, so (falsely) called an enemy to the Island of Jamaica*, and so, by such base acts and party feeling, I have been *stripped of my property, to the almost ruin of myself and family.*

That, for the protection of my honour, the sacred love of truth, and an ardent desire of promoting the public good, do I now come forward, to expose the baseness of such party feeling, by declaring most solemnly—

That I never have been the agent of either party or parties

as so unjustly represented. Neither have I been backed or supported by a party, or parties of any description, as has been so infamously put forth to my destruction.

And that, although the public press so put forth that I was being borne, and would be borne harmless, of all the heavy expenses which I have had to pay, and which are laid down at page 229, in this volume.

That I have neither received a penny, or the promise of a single penny's pecuniary assistance, up to the present hour, from either friend or party, on account of this undertaking whatsoever.

That I never held, or had any communication with the Colonial Office, further than is put forth in this volume; *and that I never had any intercourse with the Anti-Slavery Society in England, during the whole of my long residence in Jamaica.*

That the part I have of late years taken in Jamaica, and am still willing and ready to take again, was zealously and conscientiously undertaken, for the pure and disinterested motive of benefiting my fellow men, (although bondsmen) *and of thereby working out at length a public good.*

And never with any view of pecuniary or self-interested motives, further than the obtaining the love of those *whose welfare I ardently and anxiously looked forward to.*

AND I make this solemn declaration, conscientiously believing the same to be true. And by virtue of the provisions of an Act, made and passed in the fifth and sixth years of his present Majesty, William the Fourth, entitled "An Act to repeal an Act of the present Session of Parliament, *entituled, an Act for the more effectual Abolition of Oaths and Affirmations, taken and made in various departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial Oaths and Affidavits,* and to make other provisions for the abolition of unnecessary Oaths.

HENRY STERNE.

Declared at London, this
17th day of December, 1836.

THOMAS KELLY, Mayor.

HENRY STERNE,

The Fourth Son, or Ninth Child, of WILLIAM

	NAMES.	
	Simon Sterne,	1564,
	The eldest Son of WILLIAM STERNE of Mansfield; v	
	MARGERY WALKER..... Born or Baptized, 3rd Sept	
	They had Seven Children, as	
1	WILLIAM	20th March, 1593, beir
2	GREGORY	27th May, 1595, "
3	RICHARD, *the Archbishop of York*	9th April, 1597, "
4	FRANCIS	8th April, 1599, "
5	THOMAS	23rd November, 1600, "
6	SAMUEL	25th August, 1604, "
7	ANN	31st July, 1606, "
	Richard Sterne,	
	The third Son of SIMON and MARGERY, of Mansfielc	
	ELIZABETH DICKINSON	1617,
	They had Thirteen Children, a	
1	ELIZABETH	26th May, 1636, bei
2	RICHARD	2nd June, 1637, "
3	EDWARD	10th November, 1639, "
4	RICHARD	31st January, 1641, "
5	ELIZABETH	12th April, 1642, "
6	EDWARD	9th January, 1643, "
H 7	WILLIAM	20th January, 1645, "
8	EDWARD	22nd September, 1647, "
9	THOMAS	24th October, 1648, "
10	CHARLES	17th July, 1650, "
11	ANN	17th December, 1651, "
12	SIMON	13th February, 1653, "
13	LUCY	22nd November, 1655, "
	William Sterne,	
	The Seventh Child of RICHARD, Archbishop of York,	
	FRANCES CARTWRIGHT	
	They had Four Children, as fo	
1	ANN	2nd September, 1673, bei
H 2	WILLIAM	16th January, 1675, "
3	ELIZABETH	20th May, 1677,
4	RICHARD	13th May, 1680, "
	William Sterne,	
	The second Child of WILLIAM and FRANCES; their	
	ELENOR BATEMAN	1685,
	They had Four Children, as F	
1	MARY	5th December, 1712,
2	BEATRICE	18th March, 1714,
3	RICHARD	27th September, 1717,
H 4	WILLIAM	10th August, 1727,

	NAMES.	
	William St	
	The Fourth Child of Wi	GARE
	SUSANNAH BLAKE...	.....
	They	
1	WILLIAM.....	James
2	BEATRICE	well, M
3	SUSANNAH	Beatri
	William St	
	The Eldest Child of WI	N SMIT
	AMELIA SMITH.....	.....
	They	
H 1	WILLIAM	
2	LAURENCE.....	
3	AMELIA	
4	MARIA CATHARINA	
5	SUSANNAH.....	
6	CATHARINE CAROLI	
7	MARY ANN.....	
8	CHARLES	
9	HENRY.....	
10	GEORGIANA MARGA	
	Henry Stern	
	The Ninth Child of WIL	Esquire
	JOAN MURRAY BURGI	
	The foll	
1	MARIA AMELIA	22nd A
2	HENRY LAURENCE ...	—— D
3	GEORGIANA MARGAI	11th J
4	SUSANNAH CATHARI	Ditto,

* This Child was taken Father a
Sponsors, and referring to the emony, unless they have been Commu know if state of society in Kingston wo for the Christened at Limehouse Churc

Note 1.—MARGERY STE children:—Elizabeth, born 25th March, 1651, aged 77 years.

2.—SAMUEL STERNE, w upon at Mullengar, in Ireland, in

3.—RICHARD STERNE without issue.

4.—SIMON STERNE, the York; they had a large family.

APPENDIX.

THE

FOLLOWING ARE A FEW EXTRACTS

FROM

BOOKS OF RECORD,

RELATIVE TO

Archbishop Sterne.

In FULLER'S CHURCH HISTORY, since the conquest, Page 167, Year 1642 reads:—

"The Masters and Fellows of Colleges send their Plate (or money in lieu thereof) to the King, to York, many wishing that every ounce thereof were a pound for His sake, conceiving it unfitting that they should have superfluities to spare, whilst their Sovereign wanted necessaries to spend.

(168) Drs. STERNE, Martin, and Beale, Masters of Jesus', Queen's, and John's Colleges, are carried to London, and imprisoned in the Tower, for their activity in securing the College plate for the service of the King.

(170) Some perchance may be so curious, hereafter, to know what removals and substitutions were made at this time amongst the Heads of Houses; now, although a man may hold a candle to lighten Posterity so near as to burn his own fingers therewith, I will run the hazard, rather than be wanting to any reasonable desire.

Masters put out—Twelve.

No. 8, is Dr. RICHARD STERNE, of Jesus College, and Chaplain to Archbishop Laud.

In BROWNE WILLIS'S, Survey of Cathedrals, 3 Vols., in 1742, say vol. 1, page 57:—

"He is there again spoken of as S. T. P. Bishop of Carlisle, and afterwards as Archbishop of York."

In THOROTON'S NOTTINGHAMSHIRE, vol. 3, Page 83, reads:—

"HEXGRAVE PARK, is demised to Mr. Sterne, Son of the most Reverend Richard, the present Lord Archbishop of

York, and to Frances, his Wife, one of the daughters of William Cartwright, of Normanton."

In FRANCIS DRAKE'S History of York, Page 464,

Is to be seen a large Copper-Plate Print, of the splendid monument erected to his memory, in the Cathedral of York,

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In EDMUND CARTER'S history of the University of Cambridge, published 1753.

Jesus College.

Page 210. *Richard Sterne*, Master, and Archbishop of York, gave £40 per annum, for the founding of four Scholarships, at £10 each.

LEARNED WRITERS.

Page 514. *Archbishop Sterne*, of whom at his first Place, viz. *Benet College*.

MASTERS.

Page 216. 16. *Richard Sterne*, S.T.B. 1633, after S.T P. Fellow of *C. C. C.* He was, with a great many other Loyalists, dispossessed by Parliament, March 13, 1643.

Ibid. 19. *Richard Sterne*, August 3, 1660, restored, and the same year, December 12, consecrated *Bishop of Carlisle*, when he resigned, and in 1664, was made Archbishop of York.

Page 220. *A List of the ejected Loyalists.*

Richard Sterne, D.D. Mastership.
Harlton, R. in Cambridgeshire, and
Yeovilton, R. in Somersetshire.

He was born at *Mansfield* in Nottinghamshire, but descended from a *Suffolk* Family; had been a Scholar of Trinity College, and Fellow of Corpus Christi College, in this University. Upon the breaking out of the rebellion, he was very active in sending the College plate to his Majesty; for which, (together with Dr. Beale, Master of St. John's, and Dr. Martin, Master of Queen's,) he was, by Cromwell, (who had, with some parties of soldiers, surrounded the several chapels, where the students were all at prayers), seized and carried in triumph to London. In the villages, as they passed from Cambridge to London, the people were called out by some of their agents, to abuse and revile them; they were also led leisurely through the midst of Bartholomew Fair, where they were entertained with exclamations, reproaches, scorns, and curses.

They had been near a year under restraint, in several

prisons,(where, by paying exorbitant fees,&c. they were reduced to the utmost extremity, having before been plundered of all they had), when they were, by order of Parliament, put on board a small ship called the Prosperous Sailor, then lying at Wapping; where they were no sooner come, but they were instantly put under hatches; the decks were so low, that they could not stand upright, and yet, denied stools to sit upon, or so much as straw to lie upon. Into this little ease, they crowded no less than eighty prisoners of quality, and that they might stifle each other, having no more breath than what they sucked from one another's mouths, most maliciously, and (certainly) to a murtherous intent, they stopped up all the small augur-holes, &c. that might relieve them with fresh air. In this condition, they were more like galley slaves than free-born subjects, though men of such quality and condition; and had been so indeed, might some have had their wills, who were bargaining with some merchants to sell them to Algiers, or as bad a place, as hath been since notoriously known, upon no false or fraudulent information. After this, Dr. Sterne was removed from the ship, and kept confined in prison. At length, having lost all he had, and suffered to the last degree for his LOYALTY, he was permitted to have his liberty; after which he lived obscurely till the restoration, when he soon became Bishop of Carlisle, and then Archbishop of York, in possession of which he died in 1683, in the 87th year of his age. He was a man of eminent worth and abilities, a person of unshaken loyalty, and assisted in compiling the Polyglot Bible.

In JOSEPH WILSON'S, account of the Colleges in Cambridge, published 1803, page 39,

He is ranked amongst the Benefactors of CORPUS CHRISTI, or BENET COLLEGE,

Page 45.

"RICHARD STERNE. Archbishop of York, 1664, 16th Car. II. After taking orders, Mr. Sterne was appointed Chaplain to Archbishop Laud, and was particularly active in conveying away the College plate, for the service of the King, which so offended Cromwell, that he caused him to be seized, and conveyed to London, where he was sent on board a ship laying at Wapping, put under the hatches, and treated with the greatest inhumanity; he, however, obtained permission to attend, and perform the last offices for his friend on the scaffold. After living in great obscurity until the Restoration, he was made Bishop of Carlisle, and afterwards translated to York. This prelate was a man of great worth, and eminent abilities; he compiled a System of Logic, and wrote a Commentary on the 103rd Psalm; he read the Bible with so much attention, that he enu-

merated no fewer than 3600 errors in the translation. By his will, he left £1850 to the re-building of St. Paul's, and died on the 18th of June, 1683, aged eighty-seven.

Jesus College.

Page 175.

The principal Benefactors are, Stanley, Bishop of Ely, Sir Robert Read, Dr. Reston, Dr. Fuller, Lady Price, Lady Margaret Boswell, STERNE, Archbishop of York, who gave a yearly pension of £40, for four Scholarships, &c.

In the Ancient and Modern History of the famous City of York, published by T. G. 1730, reads:—

CATHEDRAL OF ST. PETER.

Page 61. He is ranked in the list of Benefactors.

Page 83. Richard Sterne, 1664. Archbishop. He dyed 1683. He gave the Communion Plate to the Church, in all 208 Ounces of Silver.

Page 93. X. Archbishop *Sterne's* is a Noble Monument, railed in, under the little N. E. Window, leaning his Head on his left Hand; two Angels, over him; and he has this Epitaph in Two Columns.

The first Column is thus.

Hic spe futuræ gloriæ situs est

RICHARDUS STERNE Mansfeldiæ *honestis parentibus ortus:*
Tria apud Cantabrigiensis *Collegia certatim*
Ipsum cum superbia arripiunt, et jactant suum,
Sanctæ et Individuæ Trinitatis *Scholarem,*
Corporis Christi *Socium,* Jesu *tandem* Præfectum *meritissimum:*
Gulielmo Cantuariensi *martyri a sacris in fatali pegmate astitit:*
Ausus et ipse inter pessimos esse bonus, et vel illo commori;
Postea honesto concilio nobili formandæ juventuti operam dedit;
Ne deessent qui Deo et Regi cum licuerit rite servirent:
Quo tandem reduce (etiam cum Apologia et prece) rogatur
Ut Carliolensis *esse Episcopus non dedignaretur:*
At non illi, magis quam soli, diu latere licuit:
In humili illa Provincia satis constitit se Summam meruisse;

The Second Column.

Ad Primatam igitur Eboracensem, *ut plena splenderet, Gloria evectus est:*
In utroque ita se gessit ut Deo prius, quam sibi prospiceret;
Ecclesias spoliatas olim de suo vel dotavit, vel ditavit amplius;

Non antiquis Ecclesiæ Patribus impar fuisset, si coævus;
Omnis in illo enituit, quæ Antistitem deceat, et ornet, virtus;
Gravitas, Sanctitas, Charitas, rerum omnium Scientiæ,
In utraque fortuna per animi firmitas et constantia,
Æquissimus ubique vitæ tenor, regiminis justitia et moderatio,
In sexto supra octogesimum anno corpus erectum.
Oris dignitas, oculorum vigor auriumque, animi presentiæ,
Nec ulla in senectute fæx, sed adhuc flos prudentiæ
Satis probarunt quid mensa possit, et vita sobria.

Obiit Jun. 18. *Anno* { *Salutis*, 1683. / *Ætatis suæ* 87.

THAT IS,

Here lies, in Hope of a glorious Resurrection, *Richard Sterne*, descended of respectable Parents at *Mansfield*. At *Cambridge* three Colleges proudly boast the Honour of him. He was a Student of *Trinity*, Fellow of *Christ's*, and afterwards Master of *Jesus* College. He attended upon *William* of *Canterbury*,* Martyr, when he suffered upon the fatal Scaffold. In that impious age his Goodness was so conspicuous, that he was not afraid to suffer with him. He endeavoured the Improvement of Youth, that upon occasion there might not be wanting a proper supply in Church and State. Afterwards he was humbly desired to accept the Bishoprick of *Carlisle;* but it was no more possible for his Virtues to be conceal'd than for the Sun to be long totally eclips'd. In that humble province, it was plain, the best did not transcend his Merit. He was advanc'd to the Archbishoprick of *York*, that he might shine in full Glory. In both he so behav'd himself, that he consulted the Glory of God before his own Interest. Churches, formerly robb'd, he, out of his Generosity, either endow'd or enrich'd. Had he been coæval, he would have been co-equal to the primitive Fathers of the Church. Every Virtue brightly shone in him, which might adorn a Prelate: Gravity, Sanctity, Charity, Universal Knowledge. In all Contingencies he was of an even temper: Justice and Moderation appear'd throughout the whole Tenor of his Life. The Uprightness of his Body at 86, the Majesty of his Look, the Liveliness of his Eyes, and the Quickness of his Hearing and Apprehension, evidently prove the Effects of a regular and sober Life. He dy'd the 18th of *June*, in the Year of our Salvation, 1683, and of his age, 87.

---

* Archbishop Laud, who was beheaded on Tower-Hill, 1644. On the fatal Scaffold he preach'd his Funeral Sermon, from Hebrews XII. 2. Let us run with Patience the Race, &c.

And now, to be very brief respecting the AUTHOR.

Family difficulties caused the removal of himself and his father's family, in 1808, to Bristol, where, by the special kindness of friends, he was placed in Colston's school; from thence, in 1812, he was removed by his worthy kind relation, Thomas Hobhouse, Esq. of Bath, and placed at Mr. Hill's Academy, Almondsbury Hill, near Bristol, to complete his studies. In 1814 he was finally removed from school, and joined his father's family in London, when he was immediately placed in Messrs. Routh, Le Mesurer, and Co.'s counting-house, Austin Friars.

About the middle of 1815 his family, being intimate with a few worthy characters of Jamaica, then in London, say George Panton, Esq. and his family, of St. Thomas in the East, Mrs. Richard Panton, Manchioneal, and Mrs. Browne of St. George's, he determined on seeking his fortune abroad, and, accordingly, under the patronage of these kind friends, more particularly of Mr. George Panton, he sailed for Jamaica, where he arrived, at Port Antonio, in the ship Neptune, Captain King on the 28th of October, 1815. He was sent at once as a planter (there denominated a book-keeper), on Elmwood Estate, in Manchioneal, and having served his time, fully, as a book-keeper, on various Sugar Estates in Manchioneal, till 1820, he became Overseer of Whitehall Estate, in Portland, till 1821, when he sailed for England; but, in 1822, he again returned to Jamaica, under the patronage of several kind friends, but more particularly of Maurice Jones, Esq. of Portland, and was, by that gentleman, appointed overseer of Seamen's valley Estate, in Portland; but in consequence of ill health, in 1823, was removed, and became overseer of one of Mr. Jones's own estates. For some time Mr. S. was overseer of Salt Savanna estate, in the parish of Vere, one of Mr. Wildman's properties, then under the management of William Taylor, Esq., but, for the past ten years, Mr. Sterne has been principally concerned in mercantile pursuits, both in Kingston and St. George's, besides having the overlooking a few small properties.

But, finally for him, early in 1835, in consequence of the non-interference of His Excellency, the most noble, the Marquis of Sligo, the then Governor of Jamaica, with the prayer of his petitions, as laid down in this volume, and the countenance given by His Excellency to his enemies, his business and pursuits, of every description, have been totally overthrown, to the present period of 1837.

FURTHER APPENDIX.

Since closing my volume, I have received, through a friend, copy of the Jamaica Wharfage Law, under color of which the DANIELS of Saint George's proceeded to work my ruin.

I give it verbatim as it stands, in order that my readers may read and understand it for themselves, and then they will be enabled to see more clearly, the true sample of Jamaica Justice.

It is only necessary for a man to become a marked character there, and his destruction is soon decided upon; and that too under color of law, particularly when backed by the immense power then against me, viz. the Governor, the Chief Judge, and the Custos or Chief Magistrate of the Parish in which I lived.

Reader pray do attentively consider this, for it equally concerns yourself, as it does the Author, although he has been the only suffering victim.

On reference now to Page 61, will be seen the summons and charges preferred against me, viz. *that Henry Sterne, Wharfinger, at Buff Bay, in the parish aforesaid, hath refused to give, to the said M. F. G. Lemasney, the weights of certain hogsheads of Sugar, sent to the said wharf, by him, to be shipped.*

Then turn to Page 71, and read the summary trial as taken down by the Clerk of the Peace, for a copy of which I was compelled to pay the sum of £2 15s., and there my reader will see the charge distinctly set forth, viz. FOR REFUSING TO GIVE THE WEIGHTS OF CERTAIN HOGSHEADS OF SUGAR, SENT TO BUFF BAY WHARF TO BE SHIPPED.

And, now, pray let me ask, where, and what part of the law empowered the Magistrates, or say—DANIELS, to take cognizance of the charge preferred? I say, none. My Counsel, Mr. Watkis, to whom I had rode expressly more than 100 miles, declared there was none (see page 59), and that they had no power whatever against me, under such a charge; yet these DANIELS were so determined—had so made up their minds before the mock trial commenced, that they refused to hear all manner of reason—refused to hear out my witnesses, acted throughout the mock trial in the most disgraceful manner, as was afterwards proved by witnesses in an open Court of Justice (see pages 100, 101 & 105 to 107), and finally decided (see Page 63), that hav-

ing duly examined the matter, they found the same to be fully substantiated and proved.

They, thereupon, set their hands and seals to the warrant of distress, for a fine of £25, to go to the *Informer*, LEMASNEY, and £5 costs for the clerk of the peace, and further costs for the constable.

This warrant, kind reader(see p 63), was the only document that enabled me to bring my action against them, and that only because they included costs the law only authorising them to lay a fine, and not costs, so that you see the ROGUES were caught in their own trap, by the ignorance of the clerk of the peace overdoing the thing, as the Chief Justice termed it *(see page* 105), the DANIELS sheltering themselves under the concluding clause of the act, "*That the proceedings could not be removed, &c.,*" so that you see how easily a man might be ruined, and get no redress in Jamaica, under color of law, when the ruling powers are against him.

The whole of this most infamous and nefarious transaction was at once laid before His Excellency the Governor, ON OATH, (see page 37), and by him, I have full proof, was submitted to Sir Joshua Rowe, the Chief Judge(my avowed enemy), for advice, and yet no notice taken, or protection given to me, which if done, might have saved me from entering a court of law, and bringing down all the ruin that has followed.

Who then, I ask, that may read these pages, will be so callous—so lost to every fine feeling for themselves—for their fellow men—for the sacred love of protecting truth and justice, as also of exposing and putting down oppression, as not to send in their mite, and assist me in this my most arduous undertaking.

Let the reader bear in mind, that this very *Lemasney* the now *informer* was the party who acted as agent for, and rented to me the wharf, and knew full well that there were neither weights nor scales at the wharf, wherewith I could possibly have weighed a hogshead of sugar, if I had been even called upon to do so.

AND now I would give one word of advice to proprietors, who are residenters in England. To your discretion depends much the good result of things after the termination of the Apprenticeship system. I speak from a 21 years' experience of the Negro character—from a thorough knowledge of the climate and the internal resources of the island.

Hundreds of Sugar Estates will have to be abandoned and thrown up, and of course become an absolute dead letter; and

those only will be able to keep up, and pay for so doing, who take time by the forelock—who at once enter upon a liberal and conciliatory system with their Apprentices now—who are fortunate enough to have men as their representatives that will act up to these views—who at once totally abolish the system of coercion, *and, in fact, whose grand stand is,—"To do to others as they would that others should do to them."*

It is all visionary and false that the Negroes will not work without coercion. If this really were the fact, then good bye to every thing after the Apprenticeship. But this is not the case; and I know for fact, that where judgment and conciliation reign, a better order of things is daily progressing, and on such properties there is no need of the presence of a Special Justice; the Negroes abominate their appearance.

Those would act wisely who would take from them their labor on the first four days of the week, giving them up the entire of Friday and Saturday, and only hiring them on these two days whenever required, always paying them money for such. This would be the surest method of conciliation that could possibly be adopted; those who followed such a plan would find more work done on such four days, than on the present system of five, by coercion. They would be grateful, and become at once reconciled, but at present they are only eagerly looking out for the termination, when they may quit the soil.

Proprietors must get rid of any thing like an arbitrary character as their manager. Conciliation must be the watchword, as nothing will or can be done after the termination of the Apprenticeship, but by conciliation. A conciliatory character, to manage, will effect more good with one thousand pounds expenditure, than one of the old-school arbitrary characters will be able to do with ten thousand pounds. But conciliation, and a new order of things must commence at once;—it must not be left to the end of the Apprenticeship; the people must be all cheerfully settled and satisfied before the grand day of liberation comes round, for then it will be too late, and nothing but confusion will be the result of things on large properties not so prepared at that period. Every large property intended to be kept up, should at once give up the most healthful and desirable spot to domicile them on, laying such out in neat little villages, and encouraging families with assistance to build for themselves comfortable cottages. If all this is not done, the more intelligent and useful will quit and settle for themselves, and which, in fact, thousands and thousands are preparing to do now, purchasing lands for that purpose, for there is an abundance of waste lands in every parish of this Island, the population not being one tenth sufficient to keep up cultivation.

Emigration has been fully tried, and proved to be useless; and it only now lays with the present black population; and those only who commence at once, and follow the plans I have suggested, or suchlike conciliatory measures, will be enabled to secure labourers.

I should be happy to suggest much valuable information on this head, to any wealthy landed proprietor desirous of embracing it.

AN ACT FOR THE GENERAL REGULATION OF WHARFAGE AND STORAGE.

[22nd December, 1803.]

WHEREAS the act of this island, for the general regulation of wharfage and storage, made and passed in the year one thousand seven hundred and eighty-four, has been found imperfect, and further regulations are become necessary: **May it please your Majesty that it may be enacted by the lieutenant governor, council, and assembly, of this your island of Jamaica, and it is hereby enacted by the authority of the same,** That the said act, and every clause, matter, and thing, therein concontained, be, and the same is hereby, repealed and made void, to all intents and purposes whatsoever.

II. **And be it further enacted by the authority aforesaid,** That from and after the first day of January next, every owner or owners, lessee or lessees, of any wharf or wharves, or any person or persons acting under him, her, or them, and who shall receive payment for any goods, wares, or merchandise, landed on, or delivered at, his, her, or their wharf or wharves, or from any vessel lying and delivering thereat, or on the adjacent beach, the said owner or owners, or person or persons acting under him, her, or them, shall be deemed and taken to be a public wharfinger or wharfingers; and the said wharf, wharves, or landing places, shall be deemed and taken as public, and within the meaning of this act.

III. **And be it further enacted by the authority aforesaid,** That every such wharf shall, *at all times,* have thereon, *ready and fit for use,* and in good order and condition, a sufficient number of houses, sheds, rum stores, under lock and key, skids, tarpaulins, weights and scales; and and that every such wharfinger shall be, at all times, from sunrise to sunset, *ready* to receive and deliver, and to count, weigh, and gauge, all goods, wares, and merchandise whatsover, to be received on, or delivered from, every such wharf respectively: **And,** for prevention of any doubt as to the weighing and gauging hereby intended, **it is expressly declared,** That every particular hogshead, puncheon, cask, or other package whatever, *in its nature requiring weighing* or gauging, shall be individually so weighed and gauged; and any wharfinger, who shall in anywise make default in any of the particulars herein aforesaid, shall, for every such offence, forfeit a sum not exceeding fifty pounds.

IV. **And be it further enacted by the authority aforesaid,** That, on every such wharf, a wharf-book shall be at all times kept, wherein shall from time to time be regularly entered all goods, wares, and merchandise whatsover, received on, or in anywise delivered from, such wharf, and the weights, gauges, and quantities; and also the marks and numbers of all such goods, wares, and merchandise respectively; and also the names of the persons and estates from, and to whom, such goods, wares, and merchandise, shall respectively be received or delivered: And every such wharf-book shall, within twenty-eight days after the first day of January, in every year, be verified upon affidavit, exempt from any stamp duty, in manner following; that is to say,

I, A. B. *wharfinger at* *or clerk to* *wharfinger at* *do swear, that the account contained in this wharf-book, for the year*

ending on the thirty-first day of December last, is just and true, in every particular, to the best of my knowledge and belief: Which oath, entered in such wharf-book, and subscribed by the deponent, any magistrate of the parish in which such wharf may be, not being a person interested in the said wharf, is hereby empowered and required to administer; and any wharfinger, whose wharf-book shall not be verified in manner herein aforesaid, shall not recover, in any action for any wharfage of any year for which such wharf-book shall not be so verified And every wharfinger, in respect to whose wharf default shall be made, in any of the particulars herein aforesaid, for any one year, shall, for every such offence, forfeit the sum of five hundred pounds, to be recovered by action of debt, to be commenced in the supreme court of judicature of this island, by any person or persons suing for the same, to his or their own use, together with full costs out of purse, to be taxed by the clerk of the said court.

V. **And be it further enacted by the authority aforesaid,** That, on every such wharf, a table, legibly written, of the rates which may legally be demanded at such wharf, shall, after the first day of January next, be, at all times, *kept open to public view and inspection;* and any wharfinger, for default herein, shall, for every offence, forfeit the sum of twenty pounds: **Provided always,** That, in parishes in respect to which no law now subsists, or shall be passed in the present session of assembly, for regulating rates or fees for wharfage and storage, the rates and fees established by the act hereby repealed shall be deemed and taken to be the legal rates, in the same manner as if the same were herein inserted, for, touching, and concerning the said wharves.

VI. **And be it further enacted by the authority aforesaid,** That if any wharfinger aforesaid shall, directly or indirectly, ask, demand, receive, or take, any greater rate of wharfage than

is payable by law, at his or their wharf, every such wharfinger shall, for every such offence, forfeit the sum of twenty pounds.

VII. **And be it further enacted by the authority aforesaid**; That for every parish where there is or shall be any public wharf, the receiver-general of this island for the time being shall, with all convenient speed, procure, at the public expence, from Great-Britain, one set of such standard weights and necessary appendages or appurtenances, as are mentioned in a certain act of this island, entitled, *An act for appointing standard weights to be kept at sundry places near the outports of this island; and to oblige the persons keeping such weights, and the clerks of the market, to prove all weights by the standard at stated times;* of which said act all and every the provisions are hereby declared, and shall be deemed and taken to be, in full force and effect, with regard to the standard weights hereby directed to be provided, as if the same were herein re-enacted and set forth, save only as to the places of deposit for such standard weights; and which places of deposit shall be fixed in the most convenient manner, by the justices and vestry of the said parishes respectively.

VIII. **And be it further enacted by the authority aforesaid**; That receipts, *when demanded*, shall be given for all goods, wares, and merchandise whatsoever, which shall be in anywise received upon any such wharf; and for any default herein, every such wharfinger shall forfeit a sum not exceeding twenty pounds.

IX. **And be it further enacted by the authority aforesaid**; That no such wharfinger shall be deemed to be under an obligation to deliver any goods, wares, or merchandize, from his wharf, unless wharfage for the same shall be paid or tendered, according to the rates which may be legally demanded.

X. **And be it further enacted by**

the authority aforesaid; That in any plaint of damages against any such wharfinger, where the damages sought shall not exceed the sum of fifty pounds, the same, and any penalties hereby imposed, not exceeding fifty pounds, shall be tried, adjudged, and determined, and the damages or penalty recovered, in a summary way, before any three justices of the peace of the parish in which the wharf shall be, to the use of the person suing or prosecuting for the same, whose testimony is hereby declared admissable thereon; and, upon conviction, payment shall be enforced by warrant, under the hands and seals of the said justices, or under the hand and seal of any one of them; *and the proceedings in any such case, shall not be removed to, or revised by, the supreme court, or any other court whatsoever.*

The following is the Special Constable's Warrant, or Commission, alluded to by me, at page 75, to which my servant, David Clarke, was sworn to obey:—

I DAVID CLARKE, in the presence of Almighty God, solemnly declare, that I will well and truly serve our Sovereign Lord, King William the 4th, and that I will faithfully execute the office of Constable over the apprentices of Buff Bay, Saint Georges, apprenticed under the Act for the Abolition of Slavery, and that I will, to the best of my ability, *maintain peace and good Order*, on the said Buff Bay, Saint George's, under the direction of my Master, or Managers there, and that I will use my best endeavours to secure, and place in confinement, any apprenticed labourer, under the said act, not employed on Buff Bay, Saint George's, who may be found loitering thereon, without the knowledge or permission of my Master, or the Managers of the said.

So help me God

His
DAVID X CLARKE
Mark.

SWORN before me, this 20th day of September, 1834,

FREDERICK WHITE, Special Justice.

Now kind reader, with this sworn in Commission of Special Constable Clarke, you will more clearly see the gross injustice, inflicted upon him, as described in this volume.

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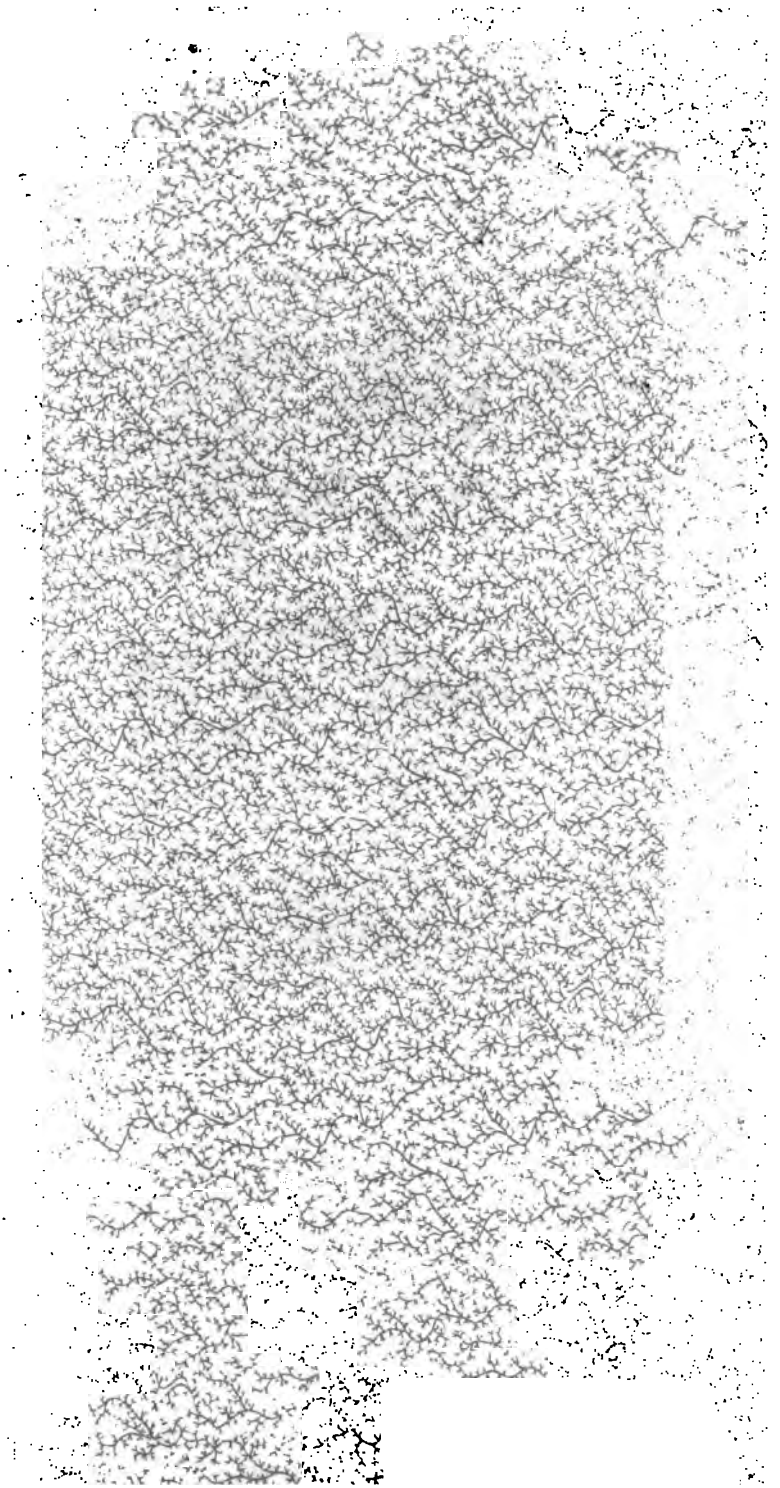
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